Supreme Court, U.S.
FILED
NOV 30 1992
OFFICE OF THE CLERK

No. 91-1738

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

JERRY D. GILMORE,

Petitioner,

v.

KEVIN TAYLOR,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

JOINT APPENDIX

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Printed by Authority of the State of Illinois (P.O. 35648—60—11-30-92)
PETITION FOR WRIT OF CERTIORARI FILED APRIL 27, 1992
CERTIORARI GRANTED OCTOBER 5, 1992

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JOINT APPENDIX

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Date	*Proceeding*
March 20, 1986	Jury finds Taylor guilty of murder
February 2, 1987	Illinois Appellate Court affirms Taylor's conviction
June 4, 1987	Illinois Supreme Court denies Taylor's petition for leave to appeal
December 23, 1987	Circuit Court of Sangamon County, Illinois, denies Taylor's petition for post-conviction relief
March 13, 1989	Illinois Appellate Court affirms the denial of post-conviction relief
October 5, 1989	Illinois Supreme Court denies Taylor's petition for leave to appeal
December 19, 1990	United States District Court for the Central District of Illinois dismisses Taylor's petition for habeas corpus relief
January 21, 1992	United States Court of Appeals for the Seventh Circuit reverses the denial of habeas corpus relief

VOLUME XII

[1][1] IN THE CIRCUIT COURT
FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	
-vs-	)	No. 85-CF-536
KEVIN W. TAYLOR,	)	
Defendant.	)	

REPORT OF PROCEEDINGS of the trial before the HONORABLE SIMON L. FRIEDMAN, and a Jury, on the 18th day of March, 1986.

APPEARANCES:

THE HONORABLE J. WILLIAM ROBERTS,
State's Attorney of Sangamon County, by
MR. JOHN A. MICHELICH,
Assistant State's Attorney, for the People of the State of Illinois.

MESSRS. JOSEPH W. MILLER and DAVID K. HARRIS,
for the Defendant.

* * * * *

[1] Numbers in brackets refer to the Court Reporter's original pagination of the Transcript of Proceedings.

OPENING STATEMENT FOR THE PROSECUTION

[9] * * * MR. MICHELICH: If it please the Court; counsel; ladies and gentlemen of the jury.

Now, that you have been selected and sworn as jurors in this case, I want to introduce myself to you again a bit more formally.

I am John Michelich, and I am Assistant State's Attorney here in Springfield.

It will be my duty during the course of this trial to present to you the evidence on behalf of the [10] People of the State of Illinois against the defendant Kevin Taylor, who is seated there at counsel table between his two attorneys.

The evidence will show, ladies and gentlemen, that on September 14th, 1985 at about 1:47 A.M. Joyce Taylor and her boyfriend Scot Siniscalchi were asleep in their apartment located at 2324 South Ninth Street here in Springfield when Joyce's ex-husband, the defendant in this case Kevin Taylor, broke in the door—the front door to that apartment and attacked Scot Siniscalchi with a knife stabbing him several times as he lay there in his bed.

Joyce sat there and screamed in horror as she watched her ex-husband stab her boyfriend in bed with the knife.

After Joyce ran to the phone to call police during the struggle, the defendant Kevin Taylor ripped the telephone from the wall so that she could not summon police and said something to her like, "You don't want to do that," or, "Don't do that," and then said, "I love you."

Joyce watched as Scot staggered from the bedroom into the living room bleeding profusely and as he collapsed to the floor of the living room.

[11] Joyce then ran downstairs and picked up her two-year-old daughter who had been awakened during the struggle, who was crying. Joyce took her two-year-old

daughter and ran down the stairs to get a telephone at her neighbor's apartment.

As she stood in the hallway waiting for her neighbor to answer the door, her husband--her ex-husband Kevin Taylor ran down the steps past her and out the front door of the apartment building slamming the door behind him.

While police and paramedics were on their way to the scene Scot Siniscalchi bled to death as he lay on the living room floor of the apartment.

We're here, ladies and gentlemen, because the defendant has demanded his rights under our system to a trial by jury.

During the course of this trial I will present to you the evidence of the defendant's guilt here in this courtroom, and as the defendant—or as the Judge indicated to you the witnesses you will hear will testify from the witness stand, and you will base your decision as jurors on the testimony of the witnesses that you will hear and the exhibits that will be introduced and admitted into evidence in this case.

[12] Your duties as jurors, ladies and gentlemen, the Judge has explained partially to you already during jury selection and just a moment ago before we began the trial. Your duty as jurors is not always easy, but it is a clear duty.

You will be called upon to decide the defendant's guilt based upon the evidence as I have indicated by listening to the evidence, the testimony that you will hear, and in considering exhibits that will be introduced into evidence.

It has been said that really in a criminal trial—a jury trial that there are really thirteen judges in a case, of course, Judge Friedman, who will sit in this case as judge of the law and make rulings as to the law and the rules of evidence and so forth, but there are also twelve other judges who are judges of the facts, and those twelve of

you who will retire to deliberate upon your verdict at the end of this case are also judges, judges of the facts.

Therefore, as you consider the evidence in this case, we ask for you as you bring to the courtroom all of your experiences in life that you bring with you your common sense and all of your experiences so that it will be—you'll be better able to judge what is reasonable [13] and unreasonable, what is logical and what is illogical as you hear the evidence in this case. As judges of the facts, that will be your duty.

The Judge has indicated to you the various stages of the trial.

After I am finished here with my opening statement one of the defense attorneys may have an opportunity to address you on behalf of their client.

An opening statement is an overview of the case of the evidence that you will hear. It's like a table of contents to a book possibly in which the lawyers will attempt to familiarize the jury with the evidence that they expect to be proven in the case.

Likewise, after you've heard all of the testimony the attorneys have a chance to summarize the evidence to you and to draw together through inferences based upon the evidence what the evidence has in fact shown.

Ladies and gentlemen, during jury selection you heard that the defendant faces five counts of a criminal information. The Judge read to you the title of those counts, and I want to familiarize you now with what it is that the defendant is charged with here today.

You heard that the defendant is charged with four counts of murder. Now, that, of course, does not [14] mean that he is charged with killing four different people or committing four different murders. That's not it at all.

We have this question very frequently. It simply is four alternative ways of saying the same thing.

I suppose lawyers always want to have alternative ways of saying things, and under our law there are these four alternative legal theories or legal definitions, if you will, of the offense of murder, and this defendant is charged with those four alternative legal definitions, any one of which, of course, when proven is sufficient to convict the defendant of murder. Any one or all may be found by you to apply in this case.

In Count I the defendant is charged with on the 14th of September with the offense of murder in that he, without lawful justification and with the intent to kill Scot Siniscalchi, stabbed Scot Siniscalchi with a knife thereby causing the death of Scot Siniscalchi.

The first count is based upon intent to kill the defendant—the second—or, excuse me—the victim.

The second count charges the offense of murder in that the defendant without legal justification stabbed Scot Siniscalchi with a knife, knowing that such acts would cause the death of Scot Siniscalchi, thereby [15] causing his death.

In that case and this second case it is knowing that his acts would cause death.

The third count of murder alleges that the defendant is guilty of the offense of murder in that he, without justification again, stabbed Scot Siniscalchi with a knife knowing such acts creating a strong probability of death or great bodily harm to Scot Siniscalchi, thereby causing the death.

In Count III the legal theory is knowing that there was a strong probability of death to result from multiple stab wounds.

In Count IV the defendant is charged with murder in that he, without justification while committing another forcible felony, and in this case you heard that the defendant is charged with home invasion—while committing a

forcible felony, home invasion, in violation of other Illinois statutes, he stabbed Scot Siniscalchi, thereby causing the death of Scot Siniscalchi.

In Count Number IV the offense of murder is based upon the commission of another forcible felony and the murder being committed in the process of that other forcible felony.

And, as I have said, those four murder counts [16] are merely alternative legal definitions of the offense of murder.

Count V charges that the defendant is guilty of the offense of home invasion in that he, not being a police officer acting in the line of duty, knowingly and without authority entered the dwelling of Joyce Taylor located at 2324 South Ninth Street, knowing Joyce Taylor and Scot Siniscalchi to be present within that dwelling, knowingly caused injury to Scot Siniscalchi, a person present in the dwelling, in that he stabbed Scot Siniscalchi.

Ladies and gentlemen, those are the five counts or charges which the defendant faces in this trial.

When the evidence has been completed you will be instructed by Judge Friedman as to the law which is to be applied concerning those charges.

I will present to you evidence that will show that Joyce Taylor was married to the defendant Kevin Taylor for a period of time, I believe almost two years. They became separated around Thanksgiving, during November of 1984, and no longer lived together.

Divorce papers were filed about that time, I believe, by the defendant and jointly by the—by his [17] ex-wife Joyce to get a divorce, and the divorce was final, I believe, about May of 1985.

At the time of the murder of Scot Siniscalchi, Joyce was living with Scot in her apartment at 2324 South Ninth.

Apparently, ladies and gentlemen, the fact that his ex-wife was seeing a new boyfriend caused the defendant

to be very, very jealous of his ex-wife, because on a number of occasions the defendant had threatened to do bodily harm to Scot Siniscalchi, in fact had threatened to kill him on occasions prior to the murder. This, on these occasions, shows that the defendant expressed his intent to do bodily harm to or to kill the victim in this case, Scot Siniscalchi.

On the night of the murder Joyce and Scot went to bed early at 9:00 P.M. Joyce went to bed early because her job required her to be up and working at about four o'clock in the morning.

They went to bed a little after nine o'clock, and Joyce put her two-year-old daughter Katy to bed as well in the apartment.

While they were asleep the telephone rang at about one o'clock in the morning awakening them. Joyce answered the phone, and it was her ex-husband, the [18] defendant in this case, Kevin Taylor.

After a short conversation on the telephone Joyce told Kevin that she had to go back to bed, that she had to get up early in the morning, and she needed her sleep and terminated the conversation.

After they were asleep again the phone rang a second time, and this time Joyce asked Scot if he would please answer the phone, and he did, and it was her ex-husband again, Kevin Taylor.

This time when Scot answered it he told Kevin, please, not to call Joyce again, that they were trying to get their sleep, and the conversation again was terminated.

A short time after they had fallen asleep again after the second phone call they were awakened by a very loud bang or banging at the front door as the front door was being knocked in.

As Joyce sat up in her bed and as Scot sat up in his bed, they saw the defendant Kevin Taylor as he came through the door of the bedroom from the living room

where he had broken in the door, turned on the living room light and came into the bedroom.

Joyce, as she sat up in bed, saw her ex-husband come over, jump over her and onto Scot, and she asked [19] him, please, not to do this.

Joyce saw the knife blade in the hand of Kevin Taylor as it reflected in the light and as the defendant used it to begin to stab Scot Siniscalchi.

Scot yelled, "Don't do this, Kevin; don't do this, Kevin; you're killing me."

Joyce tried to pull Kevin off of Scot but was unsuccessful. She felt the knife brush against her skin as her ex-husband used it to stab her boyfriend.

During the struggle she ran from the bedroom to the kitchen to use the telephone, and as she was doing that, she heard Scot yell from the bedroom, "My God, the knife is in me. I can feel the knife in me."

Joyce then panicked and hesitated as she was attempting to use the phone and attempting to think of what the number to dial as she saw her boyfriend Scot stagger from the bedroom bleeding profusely, and then she saw her ex-husband come from behind Scot over to where she was and pulled the telephone from the wall, telling her, as I have said, "You don't want to do that."

Joyce then watched as Scot collapsed on the living room floor up against the couch that was in the living room as he lay there on the floor bleeding.

Joyce ran out the door, and on her way out [20] the door she looked back and she saw the defendant Kevin Taylor either kick or knee Scot in the abdomen or in the back as he was laying on the floor.

Joyce ran down the stairs with her daughter Katy, who was crying, and attempted to summon her neighbor. As she stood in the hallway by her neighbor's door before the neighbor answered her door, in the light of the hallway she saw her ex-husband again as he ran by her and

out the front door slamming the front door very hard behind him.

I will also present to you the testimony in addition to that of Joyce Taylor, who was the eyewitness to this murder, the testimony of the neighbors as to what they heard and what they saw and what they did on that night.

I will present to you the testimony of the police officers as to what they did when they arrived and what they did in investigating this murder.

You will also hear from the pathologist from the Memorial Medical Center Department of Pathology, the Southern Illinois University School of Medicine, who performed the autopsy on the body of the deceased Scot Siniscalchi, and you'll learn that Scot died of severe stab wounds, seven, deep stab wounds, to be exact, with [21] a very long knife, one of which perforated his liver causing him to bleed to death.

You will hear evidence that the defendant was arrested at his home shortly after the crime, within minutes of the crime as a matter of fact, and when he was arrested there was a cut on his arm, there were scratches on his face, and there was blood on his clothing.

You'll also hear testimony, ladies and gentlemen, from fingerprint and palm print analysts from the Springfield Police Department.

You'll hear that the defendant left his palm print on the front door of the apartment house in blood as he fled the apartment slamming the door behind him and that this palm print is the palm print of the defendant Kevin Taylor.

Ladies and gentlemen, that is your duty and that is what I will present to you as is my duty under the law, and I'm certain that after you have heard all of the evidence in this case that you will then do your duty and deliberate in this case and return the only just verdict.

* * * * *

TESTIMONY OF JOYCE TAYLOR

Direct Examination by Mr. Michelich:

* * * * *

[30] * * * Q What time did you go to bed on that night?
A It was about ten after nine.
Q This would be ten after nine P.M. on the 13th?
A Right.
Q And then after midnight it was the 14th, right?
A Right.
Q Was Scot at home that night?
A Yes—yes, he was.
Q What did he do while you were working on your work for your employer?
A He was watching TV and playing with Katy.
Q Did he go to bed when you did?
A Yes, he did.
Q And did Katy also go to bed?
A Yes.
Q Where did Katy sleep?
A On a pallet at the foot of our bed.
Q In the same room that you slept?
A Yes.
Q After you went to bed you said it was what time?
[31] A Ten after nine.
Q What happened next, Joyce?
A Uh—there was a phone call. It was a little bit before one, and I got up and I answered the phone, and it was Kevin and—.
Q Where is the telephone located in your apartment?
A In the kitchen—right inside the kitchen.
Q On which wall of the kitchen?
A Uh—the wall closest to the sofa.
Q On the side of the sofa?
A Right.
Q The phone is located right here?

A Yes, on the wall.
Q All right, go ahead.
A And I answered the phone, and—uh—Kevin said, "What are you doing?"
I said, "I'm sleeping."
Q Who was on the phone when you answered?
A Kevin Taylor.
Q Did you recognize the voice?
A Yes.
Q Did he identify himself as the defendant Kevin Taylor?
[32] A No.
Q Okay.
And when you answered the phone what did Kevin Taylor say to you?
A He said, "What are you doing?"
I said, "I'm sleeping."
He said, "Sorry for calling so late, but I was just wondering when we started Terminix," and I said—I was starting to figure it out—.
Q I'm going to ask you to speak up a little more loudly. I think the jury is having trouble hearing you.
What did he say about Terminix.
A He said he was wondering when we had started it. He was just trying to figure it out. And I said I didn't remember.
Q What time was it that the phone rang?
A It was around one, shortly before one.
Q What else did Kevin say to you?
A He—uh—asked if he could see Katy tomorrow, and I said yes. And I said, "When did you want to see her?"
He said, "It doesn't matter."
And I said, "I've got to let you go. I need to get back to bed."
And—uh—he just acted like he didn't hear me, [33] and he said—uh—"So, are you still with Scot?"

I said, "Yeah."
He said, "I didn't think you would be with him that long."
I said, "We're doing fine." And I said again I really had to go to bed, I had to get up real early to go to work.
And he said, "You're rude."
And I said, "What?"
He goes, "Forget it," and he hung up, said, "Goodbye then."
Q He hung up on you?
A He said, "Goodbye," and then he hung up.
Q Was he angry on the phone?
A He didn't seem to be.
Q Were you angry on the phone with him?
A No.
Q Did you allow him visitation—.
A Yes.
Q —with your daughter Katy?
A Yes.
Q On what frequency basis?
A Whenever he wanted her he would call.
Q About how long did this conversation last?
[34] A Uh—maybe a minute, a minute or two.
Q Did you go back to bed?
A Yes, I did.
Q Did you get back to sleep?
A Yes.
Q What happened next, Joyce?
A The phone rang again, and I kind of knew it would be him, so I asked Scot to answer the phone.
Q What time was it when the phone rang the second time? Do you know?
A It was just shortly after one.
Q How many minutes had passed, or is there any way you can tell, between the first call and the second call?
A Just a matter of minutes.

Q Did Scot get up and answer the phone?
A Yes, he did.
Q Did you hear what Scot was saying from the bedroom?
A Yes.
Q Did you stay in the bedroom?
A Yes.
Q What did you hear Scot say?
A He said, "Hello," then he said, "Just leave her [35] alone, Kevin, she's trying to sleep." And then he said it again.

And—uh—then he—he said it three times. Actually, he said, "Leave her alone. She has to get some sleep. Don't bother her," and then he hung up.
Q Did he raise his voice?
A The third time he did a little bit.
Q Did he sound angry over the phone to Kevin?
A Just kind of agitated.
Q How long did this conversation last?
A Not even a minute.
Q Did Scot then come back to bed?
A Yes, he did.
Q Were you able to get to sleep again?
A Yes.
Q Then what happened?
A Uh—we both went back to sleep, and we heard a loud noise at the door.
Q What did it sound like to you?
A Sounded like the door had been knocked in, and—uh—we both sat up in bed. Than I was—I was looking at the doorway into the bedroom, and I saw—uh—Kevin standing there, and then he stepped out into the bedroom.
[36] Q Now, there is a step down into the bedroom?
A Yes.
Q Is that from the living room to the bedroom?
A Yes.

Q On People's Exhibit 1 here is it the doorway between the living room and the bedroom you're referring to?
A Right.
Q Okay.

Now, after Scot had talked on the phone to Kevin the second time, was there a light on in the living room?
A There is a little night light.
Q Where is the night light located?
A It was next to the sofa against the wall.
Q Up here?
A Right up there, yes.
Q Is there a—in that room is there a ceiling light?
A Yes, there is.
Q Where is the switch for the ceiling light?
A Right inside the door—living room door.
Q And again on People's Exhibit 1 is it right inside the door to the apartment?
[37] A Yes.
Q On the wall closer to the bottom here of the diagram?
A No, it's—it was on—.
Q The other wall?
A Right.
Q Okay.

When you look up from your bed and you said you saw the defendant—.
A Yes.
Q —what was he doing when you first saw him?
A He just walked in—uh—walked to the bedroom door, and then he just stood there for a minute and then he walked into the room.
Q Was the light on in the living room?
A Yes, it was.
Q Had it been on when you had gone to sleep?
A Yes—no, it was off when we went to sleep.

Q It was off?
A (Nodding head up and down.)
Q Does the front door open this direction or does it open the other direction?
A This—toward this wall down here. (Indicating.)
Q Toward this wall?
[38] A Uh-huh.
Q So, actually the diagram is incorrect with regard to that, is that right?
A Yes.
Q So actually the door should hinge from this way?
A Right.
Q Because the light switch is over here?
A Right.
Q All right.
After you saw the defendant in the doorway you said he stepped down into the bedroom?
A Right.
Q Did he stand in the doorway for very long?
A No.
Q What did he do then?
A Uh—he stepped down into the bedroom and he walked over toward the bed.
Q How big is the bedroom?
A It—it wasn't a big room.
Q Not very many steps over to the bed?
A No.
Q On that night was the bed in the position it is now in the bedroom on this diagram?
[39] A Yes.
Q Against the wall?
A Yes.
Q In which position on the bed were you?
A Uh—.
Q Nearest the wall or away from the wall?
A Away from the wall.

Q Can we assume then that Scot was sleeping nearest the wall?
A Yes.
Q What happened next, Joyce?
A Uh—Kevin walked over to the bed and—uh—he started to climb onto the bed, and he motioned to me—he says, "Stay right there; don't move," and—because Scot and I were scooting away from him up against the wall. And—uh—as he was climbing onto the bed he said that, and then he reached behind him and pulled a knife out.
Q Did you see the knife?
A Yes.
Q Do you know where he brought the knife from?
A Just behind his back.
Q Could you tell how long the knife was?
A Uh—it must have been about like this, I think. (Indicating.)
[40] Q The blade you're referring to?
A Yes.
THE COURT: The witness indicated about a six-inch blade.
THE WITNESS: Yes.
MR. MICHELICH: I believe that's right, Judge.
Thank you.
Q How did he say that to you, "Just sit right there," or, "Just stay right there"?
A He was—uh—had a calm voice. He was just motioning with his hand, "Just stay there; don't move. Just stay right there."
Q Did he appear to you to know what he was doing?
A He seemed to.
Q Then what happened?
A Uh—he started to climb onto the bed, and Scot and I kept scooting away from him. And he climbed onto Scot, and Scot was saying, "No, don't do that. Please, don't do that."

And I was saying, "Kevin, no, don't do that."

And he got on top of Scot, and he had—uh—Scot had grabbed his arms to try to keep the knife away and—uh—.

Q Could you see all this from where you were?

[41] A Yes, and then they started struggling a little, and I got pinned between them somehow and—uh—I felt—I could feel the blade. It went across my hand and—.

Q You say—what do you mean by that?

A I just—while they were struggling it just sort of went across my hand.

Q Did it cut you?

A Just a top layer of skin. It didn't really cut.

Q Go on.

A Then I got—I got away from in between them, and I—uh—I tried to pull Kevin off of Scot by his shoulders, and I couldn't. So I—I crawled off the bed.

Q Did you say anything to him?

A No.

I crawled off at the foot of the bed, and I started to go into the kitchen to call the police. And right when I stepped up into the living room I heard Scot say that the knife—.

MR. MILLER: Your Honor, I'm going to object to what Scot said. It's hearsay.

THE COURT: She may answer.

MR. MICHELICH: Thank you, your Honor.

Q What did he say?

[42] A Uh—as I stepped up he said, "The knife's in me, Joyce; the knife's in me."

And I—I kept going for the phone, but I couldn't—I couldn't remember the phone number after he said that. Uh—so I went ahead—I went in there to the kitchen and I picked up the phone, and I was looking at the phone numbers—you know—the numbers on there, and I couldn't think of the main number, so I hung the phone back up.

Q Was the light still on in the living room when you crossed it to go into the kitchen?

A Yes, it was.

Q Did you turn on the light in the kitchen?

A Yes.

Uh—and then after I hung the phone back up I turned around to go back into the living room. I was going to go back into the bedroom, and I turned around and Scot was standing right there at the bedroom and living room door.

Q Now, with regard to People's Exhibit 1 is that the same door as where you say there is the step down?

A Right.

Q Okay.

And where were you standing when you saw Scot [43] come to the door?

A At the doorway to the living room and the kitchen by the—near the phone.

Q In this area?

A Right—right there.

Q All right.

Go ahead. What happened, Joyce?

A Uh—I turned around and I saw Scot standing there. He was covered with blood. And I—I started to walk over there—uh—to where he was, and Kevin came out from behind him, and we were all just—we all just stood right there. And Kevin just kind of looked at me, and I said, "Kevin, you got to go; you leave."

And he just stood there, so I turned around and I ran back to the phone, and he ran over to it and he pulled the phone cord out, and he said—he said, "You don't want to do that," and he said, "I love you."

And I—Katy was screaming, and so I turned around and I picked up Katy. She was in the living room. I ran to her and picked her up and started to run out the door. And I stopped right outside the door and I looked in, and

Scot had—uh—staggered over to the couch and fallen up against the couch.

Q With regard now to People's Exhibit Number 1 [44] was the sofa in the position it is on this diagram?

A Yes.

Q All right.

You said he collapsed. Where did he collapse?

A Near—uh—.

Q The letter "A" in—.

A Yes.

Q —which is marked on the diagram?

A Yes.

Q All right.

And is that where he was when you were going out the door here?

A Yes.

Q All right.

And as you were going out the door what did you see?

A I stopped and I turned around, and I saw Kevin. He either kneed him or kicked him, and I started screaming, and I ran down the stairs to the—Tammy's.

Q When Kevin Taylor kicked Scot what position was Scot in?

A He was—uh—he was leaning up against the couch, and then he kind of fell off of the couch onto the floor. [45] Q What happened after he kicked or kneed Scot?

A I left the room. I don't know.

Q What happened next, Joyce?

A I ran downstairs to Tammy's apartment and I knocked on her door, and—uh—then I looked up at the stairs and I saw Kevin at the top of the stairs, and he ran down the stairs behind me and ran out the door and slammed the door behind him.

And right as he slammed the door Tammy opened up her apartment door, and she said, "What's wrong?"

And I said, "Kevin's stabbed Scot," and I took off back upstairs, and then she came up running behind me, and then her husband came out and ran upstairs with us.

Q Did you still have Katy?

A Yes, I did.

Q Did you take Katy downstairs?

A Later, yes—oh, then, yes, I did.

Q The first time you went downstairs?

A Yes.

Q Did you leave her downstairs?

A The first time, no.

Q When you got back upstairs what did you see?

A Scot was laying on the living room floor right [46] near the kitchen.

Q And now with reference again to People's Exhibit Number 1 is it at or near the spot where the letter "B" is?

A Yes.

Q On this diagram?

A Yes.

Q What did you do then, Joyce?

A I went over to Scot and I kneeled down beside him, and I was holding him, and—uh—Tammy's husband told me to get some blankets or something to put on him. So I went into the bathroom and grabbed some towels and laid on him.

Q How was he positioned on the floor?

A He was laying—he was kind of on his side but on his stomach, and he had his head straight down—had—he had one arm like this and the other one like that. (Indicating.)

Q Were you able to speak to him or was he able to speak to you?

A He didn't speak to me.

Q Did you say anything to him?

A Yes, I did.

Q What did you say to him?

[47] A - I told him—.

MR. MILLER: Now, I'm going to object to what she said to him.

THE COURT: Objection overruled.

MR. MICHELICH: Q You may answer, Joyce.

A I said to him—uh—I told him he was going to be okay, and I told him that I loved him and that I was sorry, and I just said the same things over again.

Q And then you got the towels to put on him?

A Yes.

Q What happened next?

A Tammy had run downstairs to call the police, and I saw Katy and she kept looking at him, and I—.

Q At Scot?

A Yes, so I kept turning her head away, and she would turn back to look at him, so I took her downstairs to Tammy's and she put her in her house with her little boy, and I went back upstairs to Scot.

And then—uh—short time later the police came.

* * * * *

[52] * * * Q Now, when you went to bed that night, Joyce, did you have the door locked to the apartment?

A Yes.

Q Is there any other type of locking device that you had ðn that door?

A There is three locks on it.

Q What type of locks?

A There was a chain link lock and a bolt type, and then on the door we just push it in and turn the knob.

Q Did you have the chain fastened also?

A Yes.

* * * * *

[53] * * * Q People's Exhibit Number 17, would you tell me what that is, please?

A That was mine and Scot's bed.

Q Does that picture show the wall beside the bed and also now with regard to People's Exhibit 18?

A Yes.

Q What does that show with regard to the wall?

A There is a hole in the wall.

Q Was that hole in the wall there when you went to bed that night?

A No, it wasn't.

[54] Q Do you know what caused it?

A The mere struggling.

* * * * *

[56] * * * MR. MICHELICH: Q Joyce, where were you living eight months prior to the murder in January, 1985?

A At my mother's.

Q On Calhoun as you've indicated?

A Yes.

Q At about 2:12 A.M. on that day did you call the Springfield Police?

A Yes, I did.

Q Why did you call the police?

A I was receiving phone calls from Kevin Taylor threatening me.

Q Okay.

Now, did the police arrive?

A Yes, they did.

Q How many phone calls on that night had you received from the defendant?

A Approximately seven or eight.

Q When the police officer arrived did you tell him about these calls?

A Yes, I did.

[57] Q Did you receive another phone call while the police officer was there?

A Yes, I did.

Q Did you answer the phone?

A Yes.

Q What did the police officer do?

A He went to the phone in the bedroom and listened to the conversation.

Q On an extension?

A Yes.

Q Who was it that called you while the police officer was there?

A Kevin Taylor.

Q Did you recognize his voice?

A Yes, I did.

Q During the conversation did he mention the defendant—or the victim, Scot Siniscalchi?

A Yes, he did.

Q What did he say about Scot?

A He said that he was going to kill him.

Q Do you remember the defendant's exact words?

A He said someday he was going to get him. He was going to kill him someday.

Q Did the police—was the police officer on the [58] other extension when he made that statement?

A Yes, he was.

* * * * *

Cross Examination by Mr. Miller:

Q Mrs. Taylor, before—before break you testified concerning a telephone conversation or conversations you had with Kevin January 15th, 1985, is that correct?

A Yes.

Q And that was approximately eight months before the incident you testified earlier about—.

A Right.

[59] Q —involving Scot and Kevin, is that correct?

A Right—yes.

Q Now, in the eight months that came between that telephone conversation you reported and the night of this incident you've talked about there was—there was no

physical confrontations between the two that you are aware of, was there?

A No.

Q Okay.

Now, Kevin had told you in the interim though in March that Scot had had someone—some of his friends beat him up, isn't that correct?

A Scot had had his friends beat Kevin up?

No.

Q Isn't it a fact in March of 1985 that Kevin was hospitalized for a period of time for—after suffering a beating?

A I don't know.

Q You don't know?

A (Shaking head from side to side.)

Q Now, back to this conversation in January of 1985, you said that he threatened Scot. He also threatened you, and he also threatened to kill himself, did he not?

[60] A Yes, he did.

Q Now, Kevin was upset at that time, wasn't he?

A Yes.

Q Wasn't it shortly after an incident where you had come with the police and taken Katy away from him? Wasn't that—didn't that precede this phone call by a few days?

MR. MICHELICH: Your Honor, this is irrelevant and beyond the scope of direct. I'm going to object.

THE COURT: He may inquire.

THE WITNESS: Yes.

MR. MILLER: Okay.

Q As a matter of fact, when you testified earlier that you separated from Kevin you walked out of the house leaving Katy with Kevin, isn't that correct?

A Yes.

Q In November?

A Yes, he wouldn't let me take Katy.

Q Ma'am—.
THE COURT: Just answer the question.
MR. MILLER: Q —just answer the question, please.
Isn't that correct?
A Yes.
Q Okay.
[61] And subsequent to that a few days later you came back and you reconciled with your husband, did you not?
A Yes.
Q And then approximately two or three weeks later you left him again, did you not?
A Yes.
Q And you left Katy with Kevin?
A Yes.
Q Okay.
And there was discussion about a divorce?
A Yes.
Q At that point?
A Yes.
Q You told him you wanted a divorce?
A Yes.
Q And he said, "I want divorced too," didn't he?
A Yes.
Q As a matter of fact, he went to an attorney and he filed for a divorce in December of 1984?
A Yes.
Q Okay.
So it wasn't a mutual divorce. He filed against you, isn't that correct?
[62] A Yes.
Q And the reason for that divorce was that he had seen you and Scot Siniscalchi together on a date in November of 1984?
A It wasn't really a date.
Q Well, is it not true, ma'am, that you weren't—were in an automobile with Scot kissing him when Kevin walked up to the car?

A Yes.
Q Okay.
Isn't it a fact that he had picked you up after work at McDonald's and you went to a party with him?
A No.
Q Okay.
Well, on that day when he walked up to the car and saw you embraced with Scot Siniscalchi he grabbed the door handle, did he not?
A Yes, he—.
Q And Scot put the car in drive and drug Kevin Taylor for about a block down the road, did he not?
A Yes, he did.
Q And Kevin was hurt that day, was he not?
A I think he hurt his knee.
Q And he was cut up and bruised on top of that, [63] was he not?
A I know he hurt his knee.
Q Okay.
Well, you went back and lived with him after that, did you not?
A Yes, I did.
Q You observed the bruises and the cuts all over his body from that incident, did you not?
A On his knee and his hands.
Q Okay.
And his pride was hurt, was it not?
A Yes.
Q He was upset, wasn't he?
A Yes.
Q He cared a lot for you, did he not, at that time?
A Yes, he did.
Q And he loved his daughter Katy, did he not?
A Yes.
Q Wasn't Katy the most—single most important thing in Kevin Taylor's life at that point?

MR. MICHELICH: Object, your Honor. This is beyond the competency—.

THE COURT: Objection sustained.

[64] MR. MILLER: Q Well, you've testified that Kevin kept Katy when you left the home those two times.

A Yes.

Q Kevin loved Katy, did he not?

A Yes, he did.

Q And he was a good father to her, wasn't he?

A Yes, he was.

Q A good provider?

A Yes.

Q And a doting father?

A Yes.

Q He gave her baths and he fed her and made sure that she was always clean, isn't that correct?

A Yes.

Q Now, in addition I think on direct examination from Mr. Michelich you testified that Kevin had visitation and you gave it to him?

A When he wanted it.

Q When he wanted it.

As a matter of fact, it was very important to him, isn't that correct?

A He would go sometimes weeks without calling to see her.

Q But he—he and you postured for custody fight [65] back in January of 1985, isn't that correct?

A Yes—yes.

Q And that was the background of that telephone conversation, isn't that true?

A I don't recall what that conversation started to be about.

Q You had taken the police and taken Katy, his daughter, from that trailer—from your trailer, did you not?

A She was not at the trailer.

Q Well, at a friend's?

A Right.

Q Okay.

And he could not have her back?

A Right.

Q And that upset him, and that was the—the background for that phone conversation, isn't that correct?

A Yes.

Q Okay.

As a matter of fact, during those six or seven phone calls that you said he made, that was the topic. He wanted to get his daughter back, isn't that correct?

A He was saying that he wanted us both back.

[66] Q Okay.

And he—in the matter of course of the conversation he also mentioned this threat to Scot?

A Yes.

Q Now, after this incident there was ultimately a divorce entered, was there not?

A Yes.

Q And you said it was in April of 1985?

A Yes.

Q And that was done by agreement between you and Kevin?

A Yes.

Q Isn't it true that between this January 15th conversation or phone conversations you report and in April when the divorce was granted that you and Kevin worked it out—the question of custody and the question of whether or not you two were going to be divorced?

A Yes.

Q He told you, "Enough; I'll let you go," isn't that true?

A Yes.

Q And he says, "If you want Scot, you can have Scot," isn't that correct?

A I don't recall him saying that.
[67] Q Okay.
Now, were you living with Scot during the time you were still married to Kevin?
A Yes.
Q Okay.
And that was back in January, was it not?
A Uh—.
Q Of 1985?
A I think we started living together in February.
Q In February?
Okay, two months before your divorce, isn't that correct?
A Yes.
Q And in February of 1980—1985 Scot and Kevin met and talked, did they not, on one occasion?
A (No response.)
Q Do you recall?
A Uh—the time that Scot had taken Katy over to see Kevin.
Q All right.
Scot had called Kevin and says, "I want to talk to you. I'm bringing Katy over." Isn't that correct?
A I didn't know that he had called him.
Q And Scot went to Kevin's trailer?
[68] A Yes.
Q Isn't that correct?
A Yes.
Q And they had a conversation?
A Yes.
Q And Scot said, "I want to be your friend."
A I don't know.
Q Was Scot injured after that meeting?
A No.
Q And that was in February of 1985, isn't that correct?

A Yes.
Q Now, when—let's move forward to the summer months of 1985.
Scot—or, strike that.
Kevin was living in the trailer, your marital trailer, isn't that correct?
A Yes.
Q And he would call or you would call him about seeing Katy?
A (Nodding head up and down.)
Q And you would take Katy over there?
A Yes.
Q Almost on a weekly basis, isn't that true?
[69] A Yes.
Q Sometimes more than once or twice a week?
A Uh-huh.
Q Is it not true too that many of the times that you brought Katy over there that you would spend the afternoon or part of the day with Kevin and your daughter in the trailer?
A I did once or twice.
Q Once or twice?
A (Nodding head up and down.)
Q If—or, strike that.
And during these times when you were spending this time—all this time with Kevin did you not report to him that you were having troubles with Scot? Your relationship wasn't as strong as you thought it would be?
A I would talk to him about Scot and I about troubles we were having.
Q Uh-huh—and you told him that he beat you one time or threw you in a refrigerator?
A No.
MR. MICHELICH: Objection, your Honor.
This is hearsay; calls for hearsay. It's beyond the scope of direct. It's irrelevant in this case.

THE COURT: I think he's got a right to inquire.
[70] Objection will be overruled.

MR. MILLER: Q Do you recall the question, ma'am?

A No, Scot never struck me.

Q Okay.

When—well, you talked—you talked with Kevin about wanting to leave, but you couldn't—you didn't feel that you could leave Scot, isn't that true?

A I had talked to Kevin about coming back, but I—I didn't want to leave Scot.

Q And the reason—you told Kevin the reason you didn't want to leave him is because Scot was going to go to prison—would be going to prison soon, isn't that true?

A That's not why—that's not why I would not have loved him.

Q Well, you didn't feel that you could leave him now when he was facing prison?

A That had nothing to do with it.

Q Didn't you also tell Kevin that you didn't like some of the activities involved—Scot's friends and some of the things he was involved in?

A No, I didn't like the things he was involved in.

MR. MICHELICH: Your Honor, this is—this is absolutely irrelevant and beyond the scope.

[71] THE COURT: Objection will be sustained as to this—this part of the inquiry.

MR. MILLER: All right, I'll move on, your Honor.

Q Now, when—in September—in September Scot—or, strike that—Kevin—Kevin Taylor exercised visitation quite regularly with Katy, did he not?

A Yes, he did.

Q It was your practice between you and your ex-husband that he would phone—he would phone you asking you if he could see Katy?

A I usually phoned him.

Q Okay.

Well, was it unusual that he would call you?

A He called sometimes, and it would be a while, and if he hadn't seen Katy I would call him.

Q Okay.

And—well, and on the evening in question, the September 13 and 14, that was a Friday night, was it not?

A I don't remember exactly what day it was.

Q Okay.

Well, Kevin's birthday was that Sunday, two days after or one day after this incident, isn't that true?

A Yes—yes.

[72] Q And isn't it true that when he first called you at one o'clock or after one that morning that he told you that he had celebrated his birthday that day and that he wanted to see Katy for the weekend for his birthday?

A No, he did not say that.

Q Well, would it—on your divorce paper was he not given the right to see his child on his birthday?

A I don't recall that that was written up. I don't remember.

Q Well, it was in fact his birthday, the next day or the day after, isn't that true?

A Right—yes.

Q And he told you that he was looking forward to seeing his daughter for the weekend?

A He just asked if he could have her is all he said about her.

Q And you talked then about Scot too, isn't that true?

A Yes.

Q And you report here on direct examination that he asked if you were still with Scot?

A Yes.

Q And isn't it true that the subject matter of that comment was that, "Has he gone to prison yet? Had [73] he left for prison yet?"

A He said, "I didn't think you'd be with him that long?
Q And the comment that, "I don't think you were going to be with him much longer," indicated that he knew that Scot was scheduled to go to prison for his criminal charges, isn't that true?
A Yes—yes.
MR. MICHELICH: Objection, your Honor.
THE COURT: Objection sustained.
MR. MICHELICH: Thank you.
MR. MILLER: Q Well, didn't that statement, "You're not going to be with him much longer," what did that refer to?
A I—.
MR. MICHELICH: Objection. She has no idea if somebody else—.
THE COURT: Objection sustained.
MR. MICHELICH: Thank you.
MR. MILLER: Q During that conversation you told Kevin that you had to work the next day, didn't you?
A Yes, I did.
Q And you told him that you wouldn't be able to bring Katy over, that Scot would have to bring Katy over, [74] isn't that true?
A I don't recall saying that.
Q Well, you couldn't have taken Katy over because you were working that day, isn't that true?
A Right, but I could have after I got off of work.
Q Well, didn't Kevin want to see his daughter on the morning and spend the whole day with her?
A He didn't say—he just said whenever—.
Q Well, if he were—strike that.
And during this conversation, Ms. Taylor, Kevin—Kevin was in good spirit, was he not?
A Yes, he was.
Q He didn't express any anger?
A No, he didn't.

Q He was civil and polite?
A Yes.
Q And sounded happy to you?
A Sounded fine.
Q And he told you that he wanted to see his daughter?
A Yes.
Q Now, on this diagram you described where the kitchen phone was. Can you see this far? Can you see it [75] this far?
A Yes.
Q And I'd like you to mark this diagram where the phone was exactly, and if you would tell me I'll mark with an "X". Okay?
A Yes.
Q Over—.
A Right about there. (Indicating.)
Q Right in there on the wall? Was it a wall phone?
A It was on the wall.
Q Okay.
Now, you slept in this bedroom back here?
A Yes.
Q Isn't that correct?
A Yes.
Q Now, can you tell the ladies and gentlemen of the jury how far in feet it was from the bedroom to that kitchen where the phone was located?
A I have no idea how many feet.
Q Was it more than twenty feet do you believe?
A I don't know how big twenty feet is.
Q Nonetheless, it was—you had to cross through two rooms to get to the phone?
[76] A Right—right.
Q Now, during this—this second conversation you report hearing Scot say three times, "She has to get her sleep"?
A Uh-huh—yes.

Q Now, do you recall talking to me and Mr. Harris and Mr. Michelich in Mr. Michelich's office on January 15th of this year?

A Yes.

Q And I asked you what you recall hearing during that day?

A Yes.

Q And do you recall also telling me you couldn't hear—all you could—but you could hear some shouting and arguing?

A I heard them saying—I heard what Scot said about that, I needed some sleep and to leave me alone.

Q And they were—they were arguing, isn't that true, on the phone?

A He was getting a little bit louder toward the latter part of the conversation.

Q Well, did you not tell me that they were arguing on the telephone?

A They had arguments back and forth.

[77] Q All right.

You also told me you didn't know what they were arguing about?

A I didn't know what Kevin was saying.

Q Isn't it true that there could have been an argument about seeing Katy that next day?

A Nothing that I heard Scot say referred to Katy.

Q You heard this over the space of two rooms in your apartment building. Is that what you're saying?

A Yes.

Q Now, you report that this conversation occurred only minutes after the initial conversation you had with Kevin?

A Yes.

Q And in that first conversation Kevin was in a good mood?

A Yes.

Q And you parted without any harsh words between you?

A Right.

Q And he was looking forward to seeing Katy?

A Yes.

Q And it's testimony that a few minutes later in a conversation with Scot that a heated angry exchange [78] occurred?

A I don't think it was that heated. It wasn't real loud.

Q Now, had Kevin ever been to your apartment before?

A No.

Q After the first phone call—the first phone conversation with Kevin do you recall if Scot said anything to you about who had called and what it was about?

A Between the two conversations?

Q Uh-huh.

A When I did come back to bed he asked who was on the telephone and—.

Q And he asked you how come you were on the phone so long, isn't that true?

A Yes.

Q And when you say that the phone conversation lasted a minute or two you could be mistaken, could you not?

A I could be.

Q It could have lasted as much as ten minutes perhaps, isn't that true?

A But it didn't.

Q Excuse me?

[79] A But it didn't.

Q And I believe you testified that the second phone conversation lasted a minute?

A Possibly.

Q And it could have taken longer than that too, isn't that—.

A It could have.

Q Back in our meeting—yours and mine and Mr. Harris and Mr. Michelich, you told me, did you not, that you didn't see what happened in that bedroom after you left?

A Right.

Q You didn't see anyone stabbing the other?

A Right.

Q Okay.

And you just left.

So you really don't know what happened after you left to call on the telephone, isn't that true?

A Right.

Q When Kevin came to your house that night isn't it true when he came into your bedroom that for the first time he realized that his daughter was sleeping on the floor on that pallet?

MR. MICHELICH: Objection, your Honor.

[80] THE COURT: Objection sustained as to—.

MR. MILLER: Q Well, had he ever seen your daughter's sleeping arrangements before?

A No, he hadn't.

Q He had never seen that she was to sleep on a pallet on the floor?

A No.

Q Okay.

Had he ever seen that before, that her bedroom where she slept was in the room with you and this man, Scot Siniscalchi?

A No.

Q And you had never told him that she didn't have a bed to sleep in or that she was sleeping in the same room at the foot of your bed?

A No.

Q Did you?

A I don't think I did.

Q Isn't it true when he came in that night that he was there to get Katy, that he reached for Katy? Isn't that true?

MR. MICHELICH: Objection, your Honor.

THE WITNESS: No.

THE COURT: Well, what she observed.

[81] You may inquire.

MR. MILLER: Q And that Scot told him to leave her alone and that he said, "I just want my daughter."

A No.

Q And that Scot was getting out of that bed and that at that point Kevin jumped on top of Scot?

A No.

Q And it was only after Kevin and Scot were wrestling did you see this knife?

A No.

Q And, ma'am, isn't it true that this happened so fast that you don't really know what happened?

A I wasn't in the room at the time that he stabbed him.

Q And then when he came—Kevin came out of that room he wanted to get his daughter and that you took his daughter from him and left?

A No.

Q When Kevin left that bedroom that evening did he have a chance to hurt you?

A Yes.

Q And he had a chance to hurt Katy, didn't he?

A Yes.

Q He went up to you and looked at you, didn't he?

[82] A Yes, he did.

Q And he had this blank look on his face?

A Yes.

Q That's what you told me?

A Yes.

Q As if he didn't know what was happening, isn't that true? Isn't that the words you used?

A I said he didn't know what to do next.

Q What to do?

A (Nodding head up and down.)
Q And he could have hurt you at that moment in time?
A Could have.
Q But he said, "I love you"?
A Yes.
Q And then he left, isn't that true?
A He didn't leave then, no.
Q Well, did he hurt you before he left?
A No, he didn't.
Q You took out of there and you went to the Cottrills'?
A Yes.
Q He could have stopped you?
A Yes.
[83] Q But he had this blank look and let you go after telling you he loved you?
A When I was leaving he was over near Scot.
Q And he saw you again at the Cottrills'—.
A Yes.
Q —door?
A (Nodding head up and down.)
Q And he went out the front door, isn't that true?
A Yes.

Redirect Examination by Mr. Michelich:

* * * * *

[92] Q With regard to People's Exhibit 1 where on the bedroom—where in the bedroom was Katy's pallet?
A Right at the foot of the bed.
Q Was it touching the foot of the bed or was it toward the wall?
A Toward the wall a little bit.
Q How far from the foot of the bed was it by your estimate?
A Maybe two foot away from the bed.

* * * * *

TESTIMONY OF JUNE PHARES

Direct Examination

* * * * *

[117] * * * Q During the summer of 1985—summer, late summer—I want you to tell me when it was that you—were you at the Cottage Inn Tavern? Did you have a conversation with the defendant?
A Yes, I did.
Q Do you remember as close as you can when it was that conversation occurred?
A It was just in the summertime. I can't remember the exact date.
Q What time of day was it?
A Probably about—between one and two in the afternoon.
Q In the afternoon?
A (Nodding head up and down.)
Q Why had you gone there?
A Just to have a couple of beers. It was on my day off.
Q And what were you doing when you went inside
[118] The Cottage Inn? What did you do?
A Just went in and sat down.
Q Who were you talking with?
A I was talking with the owner.
Q Is that Mr. and Mrs. Ford?
A Right.
Q What happened after you were seated there?
A Well, it wasn't long till Kevin Taylor walked in and he sat down beside me, and he was—he was just talking—just general talk.
Q At that time was he married to your daughter?
A No, they were divorced.
Q Were you on good terms with Kevin Taylor at that time?

A I didn't see him that much. I'd run into him once in a while at the gas station or something.

Q Did you have a conversation with him after he sat down next to you?

A Yes, I did.

Q Did that conversation concern your daughter, his ex-wife, Joyce?

A Yes, it did.

Q Did that conversation concern Scot Siniscalchi?

A Yes, it did.

[119] Q What did the defendant say about Scot Siniscalchi?

A He said that, "I'm going to get Scot someday." He said, "It might take a while but I'll get him."

Q What prompted this statement?

A Oh, we was just talking about Joyce. He said he wasn't sure that he even wanted Joyce back, and I don't—somehow he mentioned Scot. I don't—I don't remember—you know—what—why we started talking about Scot but—.

Q Is that pretty close to his exact words, or do you remember his exact words?

A That's pretty close to his exact words.

* * * * *

VOLUME XV

[1][1] IN THE CIRCUIT COURT
FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	No.: 85-CF-536
vs.	)	Before JUDGE SIMON L. FRIEDMAN (And a Jury)
KEVIN W. TAYLOR,	)	
Defendant.	)	March 19, 1986

Court convened pursuant to adjournment.

APPEARANCES:

HONORABLE J. WILLIAM ROBERTS
State's Attorney of Sangamon County, by
MR. JOHN A. MICHELICH,
Assistant State's Attorney,
for the People.

MESSRS. JOSEPH W. MILLER and
DAVID K. HARRIS,
for the Defendant.

* * * * *

[1] Numbers in brackets refer to the Court Reporter's original pagination of the Transcript of Proceedings.

TESTIMONY OF JOHN MURPHY, M.D.

Direct Examination

* * * * *

[14] * * * Q Based upon your findings at the scene and your autopsy that you performed later on that day, do you have an opinion to a reasonable medical certainty as to the cause of death of Scot Siniscalchi?

A I do.

Q Will you state that opinion, please.

A The cause of death in this case was exsanguination or massive external hemorrhage due to multiple stab wounds of the body.

* * * * *

TESTIMONY OF TOMMY BAUGHMAN

Direct Examination

* * * * *

[34] * * * MR. MICHELICH: Q Now, Officer Baughman, I'm going to ask you questions concerning an incident on January 15th, 1985.

On that date were you dispatched to 407 West Calhoun here in Springfield?

A Yes, sir.

[35] Q What was the purpose of that dispatch?

A Threatening phone calls.

Q Was that also in the early morning hours?

A Yes, sir, it was.

Q When you arrived at 407 West Calhoun, with whom did you speak?

A Kevin Taylor's wife.

Q That would be Joyce Taylor?

A Joyce Taylor, right.

Q While you were speaking with her and taking your report, did she receive another phone call?

A She did.

Q Then what happened?

A She stated she had six or seven prior and figured that it might be him again.

MR. HARRIS: Your Honor, I'm going to object to what she said to this officer. It's hearsay, and I'd ask that that be stricken and ask the Court to instruct this witness to respond to the questions asked.

THE COURT: That part of the Defendant's—or the witness's statement as to what Joyce Taylor told him will be stricken, and the Jury instructed to disregard same.

Just tell us what you did, Officer.

[36] MR. MICHELICH: Q After the phone rang while you were present, what did you do?

A I picked up the extension phone.

Q Where was the extension phone?

A In the bedroom.

Q Was Joyce Taylor also on another extension?

A Yes, in the living room.

Q In the living room?

A (Nodding head up and down.)

Q Did you hear the voice of the person who had called?

A Yes, I did.

Q What did that person say?

A That person said that he was going to kill her, the baby, himself, and her boyfriend, Scot.

Q Was there any reference to Scot Siniscalchi?

A He never mentioned the last name. Joyce Taylor supplied that.

MR. MILLER: Objection, ask what Joyce said—.

THE COURT: No, that'll stand.

MR. MICHELICH: Q With regard to the reference to Scot, do you recall as best you can his exact words with regard to Scot?

A I can't remember his exact words.

[37] Q Okay, but what you've told us is what you remember as being pretty close?

A Yes, sir.

* * * * *

OPENING STATEMENT FOR THE DEFENSE

[95] THE COURT: Mr. Harris, do you care to make an opening statement?

MR. HARRIS: Yes, Your Honor, we do.

I apologize for the delay.

Ladies and gentlemen, my name is David Harris and I'm one of the two defense attorneys for Kevin Taylor.

You haven't heard much from me, or you haven't heard anything from me up until this point. However, it's at this point in these proceedings when the defense will be—will begin to present evidence to you.

That the evidence will consist of testimony from four witnesses including Kevin Taylor. My client has elected to testify, to take the stand so that you can hear directly from him.

The testimony of our other three witnesses will center around two time periods.

[96] The first period of time began during the month of November in 1984, and it was during this month that Kevin Taylor will tell you that he found his wife at that time, the mother of his child, in a car with another man and that upon seeing this sight, which was a total shock to him, that he pounded on that automobile and yelled for the occupants to stop what they were doing.

The Defendant will testify that when he attempted to open the car door, the driver of that vehicle placed the transmission into drive and sped off down the street at a high rate of speed, dragging Kevin alongside the car.

He will testify that he was injured, had a broken hand, abrasions, cuts, bruises, but perhaps more than anything, his pride was hurt.

In spite of that evening, Kevin will testify that he reconciled with his wife, Joyce, and he took her home that evening. She returned to the mobile home that evening.

Kevin will further testify, as will our other defense witnesses, that for the next month the relationship between Kevin and Joyce was an on again, off again relationship.

[97] One thing remained constant though, and that was that the baby—the daughter of Kevin and Joyce stayed with her father, Kevin, in the mobile home while Joyce left.

That first period of time, beginning in November of 1984 ended in September of 1985, and our testimony will concern many instances of confrontations, arguments, fights, problems over visitation, problems over a custody battle, problems over a pending divorce, many, many instances of confrontation and provocation between Kevin Taylor and his wife at that time, Joyce Taylor, and the victim, Scot Siniscalchi.

The final second period of time upon which we will present testimony starts at one o'clock or thereabouts on the morning of this incident, and you will hear testimony from Kevin Taylor what happened between approximately one in the morning and two in the morning.

You've heard testimony concerning phone calls that took place prior to this incident, and Mr. Taylor will testify that there were two phone calls that morning, one between he and his ex-wife Joyce concerning visitation arrangements for the daughter Katy the next morning, and the second phone call between Scot and Kevin wherein Scot refused to allow Kevin to talk to [98] his ex-wife concerning this visitation. The two men argued verbally.

And at some time during the next hour this alleged crime took place.

Those are the two periods of time that we will be asking you to consider in detail during your deliberations.

You'll hear testimony from our witnesses that Kevin and Joyce were married at a very young age, when Joyce was ejected from her house by her mother, and it was at that point in time that Kevin's life really began. He was crazy about this girl the first moment they met. He had someone to care for; he had someone to provide for, and he made sure that she finished her schooling.

They worked hard. They built a good life for themselves.

In the beginning of November of 1984 certain things happened to their lives, to their marriage, and as was told to you in the opening statement by the prosecutor, you don't leave your common sense and your life experiences in the hallway. You bring them into the courtroom with you.

And we'll be asking you to consider the [99] testimony of each of our witnesses in light of our life experiences, in light of the law that the Judge will instruct you upon, and we'll be asking you to return a verdict of not guilty on this charge of murder.

Thank you.

TESTIMONY OF RICHARD WILLIAM GILL

Direct Examination by Mr. Harris:

* * * * *

[112] * * * Q Richard, were you present at the mobile home at any other times when Joyce would call?

A I was there one day, and me and Kevin was setting there drinkin' a—I think a glass of tea or [113] something. Oh, I brought a soda with me. I didn't need anything to drink.

Q And when was that, if you remember?

A Now, this had to be—it was still cold.

Q Do you recall which year?

A It had to be about February of '85.

Q Were they separated at the time?

A Yeah.

Q And it was still cold?

A Uh-huh.

Q And what do you recall concerning Kevin's side of that conversation?

A That conversation—you know—I heard Kevin say—well, he was very angry. He says, "You mean that—that so and so has wrecked my car now too?"

MR. MICHELICH: Objection, Your Honor.

May we approach the bench?

THE COURT: Yes.

(Counsel approached the bench, and the following conversation was held at the bench between the Court and counsel outside the hearing of the Jury.)

THE COURT: I think you're going too far.

[114] MR. MICHELICH: Your Honor, I renew my objection as to hearsay.

We're now trying to prove that other acts have taken place. There was a car wreck that they're trying to get into that they're going to his state of mind.

Not everything can go to a state of mind.

THE COURT: Mr. Harris.

MR. HARRIS: The provocation, the confrontations between those two men were numerous and varied. We feel—.

THE COURT: I'm not going to make an exception to the Hearsay Rule this far down the pike.

You're objecting?

MR. MICHELICH: Yes, sir.

THE COURT: Sustained.

MR. MICHELICH: May I ask that the Jury be instructed to disregard the last comment of the witness?

THE COURT: Well, I'm going to let it stand.

* * * * *

JURY INSTRUCTION CONFERENCE

* * * * *

[119] * * * MR. HARRIS: If I may, please, we'll present evidence of cumulative provocation, the accumulation of provocation from November, 1984 until the date of the incident, and for that reason when the Defendant testifies, the Jury will be better able to understand his frame of mind on the date of the incident.

THE COURT: Objection overruled—objection sustained.

MR. HARRIS: Since most of our witnesses have similar testimony, we feel very strongly that we need to make an offer of proof outside the presence of the Jury.

[120] (The following proceedings were had in the presence of the Jury.)

THE COURT: Take the Jury, please.

(The Jury withdrew from the courtroom, and the following proceedings were had outside the presence of the Jury.)

THE COURT: Do you wish to make an offer of proof?

MR. HARRIS: Yes, we do, Your Honor.

THE COURT: Do you have any authority at all for what you're trying to do?

Now, this is an important part of your case.

MR. HARRIS: Absolutely, Judge.

THE COURT: And I assume you've researched it.

MR. HARRIS: Yes, we have.

* * * * *

[135] * * * THE COURT: A person commits the offense of murder when—.

MR. MILLER: No objection.

That's straight from the—yes, I.P.I. I've got no objection.

Issues Instruction, no objection.

* * * * *

[137] * * * THE COURT: Fifteen, 16, and 17.

Maybe we ought to wait until tomorrow on this anyway, because right now there is no manslaughter.

MR. MILLER: Yes, and she'll bring verdict forms tomorrow, Judge.

THE COURT: You'll need some testimony.

You want him charged with voluntary manslaughter. That's what you want?

MR. MILLER: Yes, at this point.

THE COURT: Why don't you hold onto them?

MR. MILLER: Just hold onto them.

THE COURT: You're going to have to have some evidence to get manslaughter in.

* * * * *

VOLUME XIII

[1][1] IN THE CIRCUIT COURT
FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	No.: 85-CF-536
vs.	)	Before JUDGE SIMON L. FRIEDMAN (And a Jury)
KEVIN W. TAYLOR,	)	
Defendant.	)	March 20, 1986

Court convened pursuant to adjournment.

PRESENT:

THE HONORABLE J. WILLIAM ROBERTS,
State's Attorney of Sangamon County, by
MR. JOHN A. MICHELICH,
Assistant State's Attorney,
for the People.

MESSRS. JOSEPH W. MILLER and
DAVID K. HARRIS,
for the Defendant.

* * * * *

[1] Numbers in brackets refer to the Court Reporter's original pagination of the Transcript of Proceedings.

[3] TESTIMONY OF RICHARD GILL (Recalled)

Direct Examination by Mr. Harris:

Q Mr. Gill, in the summer of 1985 at times when you would visit Kevin Taylor did you have an opportunity to see his interaction or his relationship—observe his relationship with his daughter?

MR. MICHELICH: Objection; irrelevant and immaterial.

THE COURT: He may answer.

[4] THE WITNESS: Yes.

MR. HARRIS: Q How would you describe for the jurors Kevin Taylor's relationship with his daughter?

A Well, him and his daughter were real close. They—uh—he took her everywhere he possibly could, everywhere he could afford to take her, and done everything he could with her.

[5] TESTIMONY OF LOUIS EDWARD LAWSON

Direct Examination

[6] * * * Q Mr. Lawson, calling your attention to September 13th, 1985, did you spend time with Kevin Taylor that day?

A Yes, I did.

Q And when did you first see Kevin that day?

A Uh—it was—uh—about 9:00, 10:00 in the morning.

Q And how did you meet him, or how did you see him that morning?

A He'd come down to my house and we had a couple of cups of coffee.

[7] Q How much time did you spend with Kevin that day?

A Most of the day.

Q Did you spend the evening together?

A Yes.

Q Was there any certain reason why you spent the evening together?

A Well, It was—uh—that weekend was his birthday, and—uh—he wanted to be with some friends—you know—party a little.

Q Who else was present with you and Kevin Taylor on the evening of September 13th?

A My wife and a cousin and his girlfriend.

Q And was Kevin with anybody?

A No.

Q What, if anything, did you and Kevin do in the afternoon hours?

A Well—uh—we went to the School Board and put in an application as janitor, and then when we come back we changed clothes and started working on his Pontiac he had.

* * * * *

[10] MR. HARRIS: Q And did you have plans for the next day?

A He did. He had a date, and then he was—well, it was a swimmin' date, and he was supposed to take his little girl with him.

Q Who was Kevin going to meet that next day, if you know?

A My wife's niece.

Q And what does she do for a living?

A She's—uh—.

Q Or what did she do for a living at that time?

A She's a life guard.

Q And where would that be, Mr. Lawson?

A Uh—it's—uh—Municipal Pool out by Washington Junior High.

Q Do you know whether or not Kevin was to exercise visitation with his daughter that day?

A He said he did.

Q Did you become intoxicated that evening?

A No.

Q Did Kevin Taylor become intoxicated that evening?

A No.

[11] Q Did you have anything to eat that evening?

A Yes, we did. We ordered a pizza from Domino's.

Q And do you recall about what time that may have been?

A 11:30, 12:00, something like that.

Q What sort of mood was Kevin Taylor in?

A Good mood.

Q Did he appear reasonable to you?

MR. MICHELICH: Objection, Your Honor; calls for a conclusion. The witness is incompetent.

THE COURT: Objection sustained.

MR. HARRIS: Did you have any arguments with Kevin Taylor that evening?

A No.

Q Did he appear to be upset for any reason?

MR. MICHELICH: Objection, Your Honor; same objection.

THE COURT: Same ruling.

MR. HARRIS: Q Did you make arrangements yourself, Mr. Lawson, to spend time with Kevin Taylor the next day?

A Uh—yes, we had—uh—planned on getting together and—uh—after he come back from his date and [12] sit around and maybe have a couple of beers, and then—uh—that Sunday we was supposed to have a roast dinner together.

Q A what?

A A roast.

Q And was Kevin planning on having his daughter for that dinner?

A Yes.

Q And would that have been his birthday?

A Yes, it would have.

* * * * *

TESTIMONY OF DEBORAH LAWSON

Direct Examination

* * * * *

[24] * * * Q And was there any special occasion for your meeting that night?

A Yeah, we were going to celebrate Kevin's birthday.

Q Okay.

And how did you celebrate his birthday?

A Uh—we just had—you know—a couple of beers at the house and talked.

Q What did you talk about?

A Oh, everything—huh—how he was going to open up a pedicure, and he was going to give me a facial and work on my hair and stuff.

Q What was Kevin doing at the time for a living. Do you recall?

[25] A Uh—he was going to school.

Q What kind of school?

A Uh—Cosmopolitan—.

Q Cosmotology school?

A Yes.

Q Here in Springfield?

A Yes.

Q How much time did you spend with Kevin that evening?

A Uh—say a good—uh—about seven—five, six, seven hours.

Q And between what hours of the day? Do you remember?

A It was about from 5:00 to 12:00.

Q Do you remember—.

A Or one— twelve-thirty.

Q You say that you drank a couple of beers together?

A Yeah.

Q Did you have anything to eat?

A Yes, we had pizza. We ordered a pizza.

Q Did anyone become intoxicated that you recall?

A No--no.

[26] Q What sort of mood was Kevin in?

A Real good mood—real good mood, because we laughed the whole night and told jokes and talked about our business that we were going to open.

* * * * *

TESTIMONY OF KEVIN WILLIAM TAYLOR

Direct Examination

* * * * *

[40] * * * Q Okay, what happened in November of 1984?

A Uh—November the 17th is when I caught my ex-wife—my wife with another man.

Q And where did that take place?

A On South Holmes.

Q Here in Springfield?

A Yes.

Q How did it come to be that you caught Joyce with another man?

A She told me that she was—.

MR. MICHELICH: Objection, Your Honor. This calls for hearsay.

THE WITNESS: —her and her friends were—.

THE COURT: Just a minute.

Objection sustained as to what she told him.

MR. HARRIS: Q Had you made arrangements to see your wife that evening or spend any time with your wife that evening?

A No.

Q What plans did Joyce have that evening?

[41] A She was going to the movies and shopping with a girlfriend of hers.

Q Did Joyce go to the movies and go shopping that you know of?

A Uh—I take it that she went to the movies, but I don't know about the shopping.

Q And when was the first time that you saw Joyce after she left home that evening?

A 2:00 in the morning.

Q Where did you see her?

A In the car with another man.

Q Had you been waiting for her to return?

A Yes.

Q What did you do, Kevin, when you saw your wife and this other man in the car?

A I started to walk toward the car, and—uh—when I got there they was kissing, so I banged on the windshield and they both turned and looked at me, and the driver put the car in gear. And as he started to pull away, I grabbed ahold of the door handle, and he drug me down the road at a high rate of speed.

Q And what happened next?

A Well, I could hear my wife telling him to stop, but he wouldn't. And finally I got my hand out [42] of the door handle and jumped off the car door.

Q Uh-huh.

Were you injured?

A Yeah, I got a bunch of scrapes and cuts on my legs and my knees, and my left hand was broke.

Q What happened then immediately after this incident?

A Uh—Joyce moved out and left my daughter and I at the trailer.

Q Did she move out that evening?

A No—uh—I took her home, and we talked, and I thought we had worked the problems out.

Q What happened next in your relationship with your wife?

A Uh—she moved out.

Q And when would this have been?

A About five days after I caught her with this other man.

Q So we're talking still November of 1984?

A Yes.

Q Okay.

Were you still employed at Simplex at this time?

A No, I got laid off and—uh—on the 2nd of [43] November.

Q So you were unemployed at this time?

A Yes.

Q How were you supporting your family?

A I was getting unemployment.

Q What happened next in your relationship with your wife, Kevin?

A Well, she was gone a few days, and—uh—then she moved back in and we had worked—apparently we had worked the problems out, and she stayed at the trailer with us.

Q So you reconciled?

A Yes.

Q What happened next?

A Well, Joyce moved out for the second time.

Q When was that?

A December the 2nd.

Q Where was your daughter?

A With me.

Q Did Joyce ever return home after she moved out the second time?

A I—no, not back with me, no.

Q Where did Joyce move? Do you know?

A Her mother's as far as I know.

[44] Q Did you attempt to reconcile with your wife again then in December of '84?

A Yes.

Q Were you successful?

A No.

Q And what did you do next?

A I filed for divorce.

Q What grounds did you allege—.

MR. MICHELICH: Objection, Your Honor. This is irrelevant.

MR. HARRIS: Q —for the divorce?

THE COURT: Objection sustained.

MR. HARRIS: Q Did you have custody of your daughter at this time?

A Yes.

Q Would Joyce see Katy during this period of time?

A Yes.

Q Now, Kevin, there has been testimony that on January 15th, 1985 that you made certain threats against your wife. Is that true?

A Yes.

Q And how did you make these threats?

A By telephone.

[45] Q And are those the conversations that Officer Baughman testified to earlier?

A Yes.

Q What was the reason for those threats?

A Well, she had taken my daughter away from me and—.

Q How had Joyce taken your daughter away from you, Kevin?

A Come to my home with—uh—the County Sheriff and got some of her clothes and took my daughter away.

Q So Joyce then had temporary custody of Katy, is that true?

A Yes.

Q Were you asking for custody of your daughter?

A Yes.

Q In these court proceedings?

A Yes.

Q Were you awarded visitation after January 15th, 1985?

A Yes, I was.

Q What sort of visitation did you enjoy?

A Every weekend, birthdays, holidays.

Q Did you exercise that visitation?

A Yes.

[46] Q How did you exercise that visitation, Kevin?

A She would call me.

Q Who was—who was "she?"

A Joyce would call me.

Q And what arrangements were made as far as transportation of your daughter?

A She or Scot would bring her over to my house.

Q Where was Joyce living at this time? Do you know?

A Somewhere on Monroe.

Q And with whom was she living? Do you know?

A Scot.

Q And where was Katy?

A With Joyce.

Q Was Joyce still working at this tin.

A Yes.

Q Were you still collecting unemployment?

A Yes.

Q Did you eventually divorce from Joyce?

A Yes.

Q When was that then?

A It was final—final in—uh—April—toward the end of April.

Q April of '85.

[47] A Yes.

Q How did you feel about that divorce?
A Not too good.
Q Did you make any attempts to reconcile with Joyce after that divorce?
A No.
Q Did you exercise visitation regularly?
A Yes.
Q How were you supporting yourself at this time?
A Unemployment.
Q Was there a chance that you'd be called back to your job?
A Yes, there was.
Q Were you called back?
A No, sir.
Q So what did you do then?
A A friend of mine said something about student loans available for cosmetology, and I decided to take up cosmetology work.
Q Was this—was this just a passing fancy or had you thought about this sort of thing in the past?
A I'd thought about it in the past.
Q And did you become enrolled in cosmetology [48] school?
A Oh, yes.
Q Where?
A Undergraduate School of Cosmetology.
Q Is that downtown here in Springfield?
A Yes.
Q And what sort of hours of classes did you attend?
A It was—uh—8:30 to 5:00—uh—.
Q How many days a week?
A Tuesday through Saturday.
Q And how long did you attend school?
A From April the 16th when I started, up to about the first week of—uh—August.

Q Now, did you have occasion to spend any time with your wife, Joyce, during this period of time, the early part of January, 1985—.
A She's come to my house on occasions.
Q Would you only see Joyce during visitation periods?
A No.
Q Would you see Joyce other than visitation?
A Oh, yes.
Q Would you visit her?
[49] A No, she'd visit me.
Q Would—would she announce her visits?
A Uh—no.
Q And what sort of things would—would you talk about with Joyce?
A Uh—that she missed me and missed seeing me and Katy together—uh—her problems with Scot.
Q Were you paying child support at this time?
A Were still working at this time?
A Yes.
Q How often would you see Joyce outside of the regular visitation periods?
A Uh—couple of times a week.
Q Would you talk to Joyce by phone?
A Oh, yes.
Q Would you call her or would she call you?
A She called me.
Q Why was that?
A I didn't know her phone number at the time.
Q What would you talk about with Joyce on the phone?
A Uh—she always called and told me that—uh—she was mixed up—uh—.
MR. MICHELICH: Objection, Your Honor. This is [50] hearsay.
THE COURT: Objection sustained as to what she told him.

MR. HARRIS: Q Was Joyce living with Scot at this time?

A Yes.

Q And was that a permanent arrangement as far as you knew?

A No.

Q Why wasn't it a permanent arrangement, if you know?

MR. MICHELICH: This calls for a conclusion.

THE COURT: Objection sustained.

MR. HARRIS: Q Kevin, you said that sometimes Scot would bring Katy to you.

A Yes.

Q Is that correct?

A Yes.

Q And about when are we talking about, what month?

A Let's see, it was May—the middle of May, June.

Q And would he drive Katy to your trailer then?

[51] A Yes.

Q Did you ever talk to Scot when he'd drop Katy off?

A Yes.

Q Did you ever argue with Scot when he would drop Katy off?

A Yes.

Q Do you remember any specific times when you and Scot would talk or argue when he was dropping your daughter off?

A Uh—the first time he dropped her off, the very first time.

Q And when was that, Kevin?

A It was in early May of '85.

Q So this was right after your divorce?

A Yes.

Q And how did it—how did it come to be that Scot was dropping Katy off and not Joyce?

A Joyce was working.

Q Did you make arrangements with Scot for him to bring Katy over?

A No, Joyce made the arrangements.

Q And how did you know about these arrangements?

A He called me.

[52] Q Do you recall what he said on the phone?

MR. MICHELICH: Objection, Your Honor; calls for hearsay.

THE COURT: Objection sustained.

MR. HARRIS: Q In the early part of May, 1985 when Scot Siniscalchi dropped your daughter off at your trailer, did you have a conversation with him at that time?

A Yes.

Q Was there anybody else present?

A No.

Q What was the subject of your conversation with Scot?

A The problems between me and my wife—my ex-wife at the time.

Q What did you talk about in particular?

A He was telling me that—uh—.

MR. MICHELICH: Objection; hearsay, Your Honor.

THE COURT: Objection sustained.

MR. HARRIS: Q Was Scot working at this time? Do you know?

A I don't think so.

Q But Joyce was working?

A Yes.

[53] Q Where would Katy spend her days when Joyce was working?

A With Scot.

Q Except on those times when you had visitation?

A Yes.

Q Now, during his visit in May of 1985 did you have any physical contact with Scot Siniscalchi?

A No, but we just argued face to face in each other's face.

Q What did you argue about?

A The problems that—uh—we was having between my wife and I—my ex-wife and I.

Q And what kind of problems were those?

A Well, they was—uh—that was talking to her—and she was talking to me about coming home and he didn't like the idea of that.

Q Had you, in fact, been discussing getting back together with your wife?

A Yes.

Q And who initiated those discussions toward getting back together?

A Joyce.

MR. MICHELICH: Your Honor, this is objectionable. I object to this as irrelevant and immaterial.

[54] THE COURT: That objection is sustained as to that line of questioning.

MR. HARRIS: Q So you didn't have any physical contact with Scot at this time?

A No.

Q Had you had any physical contact between November of 1984 when you were drug down the street and this argument that you had with Scot in May of 1985?

A At the end of May I had a little run-in with three guys at a nightclub when I got hit in the back of the head with a ball bat.

MR. MICHELICH: Your Honor, I object to this. This is irrelevant and immaterial.

There is no connection with this case whatsoever.

THE COURT: Objection sustained.

MR. HARRIS: Q Now, Kevin, you said that Joyce would call you—.

A Yes.

Q —to arrange for visitation?

A Yes.

Q Is that correct?

A (No response.)

[55] Q Did she call you for any other reasons?

A When she was upset.

Q Do you recall any specific times when Joyce would have called you concerning issues other than visitation?

A She called me from work one day crying.

Q Do you remember when that was?

A I believe it was in July.

Q July of '85?

A Yes.

Q Why was Joyce upset, if you know?

A Her and Scot was having problems.

Q What kind of problems?

MR. MICHELICH: Your Honor, this calls for hearsay again.

THE COURT: Objection sustained.

MR. HARRIS: Q Did you meet with Joyce after that phone call?

A No.

Q Did you discuss getting back together with Joyce during that phone call?

A She said she missed me and—.

MR. MICHELICH: Objection, Your Honor; calls for hearsay.

[56] THE COURT: Don't tell what she said.

MR. HARRIS: May I have one second, please, Your Honor.

Q Kevin, during the summer of 1985 how often would you exercise visitation?

A Every chance I had.

Q Every weekend?

A Yes.

Q Did you see Katy at all during the week?

A No.

Q And the visitation was always set up by Joyce calling you?

A Yes.

Q Now, when Joyce would visit you without Katy, what was the purpose of your getting together?

MR. MICHELICH: Objection; this is irrelevant, immaterial, nothing to do with this case, calls for hearsay.

THE COURT: Are you going to connect this up some way?

MR. HARRIS: Yes, Your Honor, we will.

THE COURT: You may proceed.

MR. HARRIS: Q What was the purpose of your getting together with Joyce in July of 1985?

[57] A Her problems that she was having.

Q Did you discuss reconciling?

A At some time, yes.

Q Make any arrangements to get back together?

MR. MICHELICH: Your Honor, objection. This calls for hearsay.

THE COURT: Objection sustained.

MR. HARRIS: Q Kevin, did your visitation go smoothly during the summer of 1985?

A Yes.

Q Did you always get Katy when you were supposed to?

A Yes.

Q How often would you see Scot Siniscalchi during the summer of '85?

A On occasion when he dropped my daughter off.

Q Did you ever see him when he wouldn't drop Katy off?

A Yes.

Q When was that?

A August—during the month of August.

Q Okay.

And how do you know it was August?

A Uh—it was during the fair.

[58] Q Okay.

And how was it that you came to see Scot during the fair last August?

A Uh—he was working at a stand at the fair and I was working at the fair also.

Q Okay.

Did you have any conversation with him?

A No.

Q What would be the nature of your—your seeing Scot or your contact with Scot at that time?

A Uh—I was—my job calls for me to go all over the grounds, and—uh—every time I'd come by where he was workin'—uh—he would point at me, laugh, and give me the finger.

MR. MICHELICH: Your Honor, I'm going to object. This does call for hearsay, although it's a behavioral type.

THE COURT: This is observation. He can tell what he observed.

MR. MICHELICH: Thank you.

MR. HARRIS: Q You say Scot would laugh at you?

A Yes.

Q What else did you observe?

A He'd point at me and give me the finger.

[59] Q Did you—did you ever confront him about this?

A No.

Q And for how long a period of time did this take place?

A Ten days.

Q Now, why was it that you were working at the fair at this time?

A To make some extra money.

Q So you were not going to school at that time?

A No.

Q Had you graduated from cosmetology school?
A No.
Q Were you going to start school again after the fair?
A Yes.
Q Kevin, you remember September 13th, 1985?
A Yes.
Q How did that day start?
A Smooth.
Q What did you do?
A Uh—the first thing in the morning I got up and went to Louie's house for coffee.
Q Is that Louie Lawson?
[60] A Yes.
Q What'd you do next?
A Well, about one o'clock we went out and put applications in at the 186 School District.
Q Did you spend most of the day with Louie?
A Yes.
Q What'd you do next?
A Worked on my Pontiac.
Q Okay.
Then after that?
A Uh—Louie went home to eat, and I went and got something to eat, and I went back to Louie's house that evening.
Q And why did you go back to Louie's house that evening?
A 'cause we was gonna get together and do some drinkin'. It was my birthday and I wanted to celebrate.
Q Did you have any arrangements made for visitation that weekend?
A Yes.
Q How much did you drink that night, Kevin?
A Six or ten beers, I guess.
Q And you played a card game?
A Yeah.

[61] Q Did you become intoxicated?
A No.
Q Did the alcohol have any effect on you?
A Yeah, I was slurring a little bit, but other than that I was doing okay.
Q Did you have plans made for the next day?
A Yeah.
Q What kind of plans did you have for the next day?
A I was supposed to be at the Municipal Pool at 9:30 to go swimming.
Q Were you supposed to meet someone there?
A Yes.
Q And who was that?
A Leslie.
Q Were you going to take Katy with you?
A Yeah.
Q And so how was it then that you would get Katy that next day?
A Either her or Scot would bring—bring Katy to me.
Q Did you eat dinner that evening?
A Yes.
Q Where was that?
[62] A I had a Burger King.
Q And later on you had a pizza with the Lawsons, is that correct?
A Yeah—yeah.
Q You remember anything in particular about the later evening hours of that night?
A Well, about quarter to—quarter to one I left and went home.
Q Okay.
Were there any harsh words exchanged?
A No.
Q How were you feeling?
A Great, very happy.
Q Were you looking forward to the next day?

A Oh, yes.
Q So you think you left Lawsons' trailer a little bit before one?
A Possibly, yes.
Q And what did you do?
A Went home, took a shower and—uh—put on some jogging clothes that I usually run around the house in, and—uh—then I called Joyce for—uh—to make arrangements for visitation.
Q And about what time was this? Do you know?
[63] A Around one, five after.
Q Wasn't that a little late to be calling Joyce for visitation?
A Well, it depends. When she works—sometimes she works until close, and that means she doesn't get home until one.
Q Have you called her in the past for visitation?
A Oh, yes—yes.
Q At that time of the day?
A Oh, yes.
Q Did you talk to Joyce?
A Yes.
Q And about how long did you talk to her?
A Ten—anywhere between ten and 15 minutes, I believe.
Q Did you make arrangements for visitation the next day?
A Yes.
Q Did you discuss anything else with Joyce?
A I—uh—asked her how she's doing and things weren't going so—so good, apparently.
Q Then why was that, if you know?
MR. MICHELICH: Objection; calls for hearsay.
THE COURT: Objection sustained.
[64] MR. HARRIS: Q How did your phone conversation with Joyce end, Kevin?

A I'll talk to you tomorrow; goodbye.
Q And what arrangements did you make for Katy?
A I was to get her in the morning.
Q Where?
A At home.
Q Did your conversation with Joyce end smoothly?
A Oh, yes.
Q Did you have any harsh words with her?
A No.
Q What happened next?
A Uh—a few minutes later I remembered I had a date that next morning, so I called back to Joyce's house, and when I did I talked to Scot.
Q Did Scot answer the phone?
A Yes.
Q About how long did that conversation last?
A Five, ten minutes, I believe.
Q What did you talk about—
MR. MICHELICH: Objection; calls for hearsay.
MR. HARRIS: —with Scot?
THE COURT: Don't tell us—he said what was the nature of the conversation.
[65] MR. HARRIS: Q What was the nature of your conversation with—.
A Could I talk to my ex-wife, Joyce, concerning my visitation with Katy the next day.
Q Did you ask to speak with your ex-wife?
A Yes.
Q And what response did you get?
MR. MICHELICH: Objection; hearsay.
THE COURT: Objection sustained.
MR. HARRIS: Q Were you able to talk to Joyce?
A No.
Q Why not?
A He wouldn't let me.
MR. MICHELICH: Objection, Your Honor.

THE COURT: You may answer.

MR. HARRIS: I'm sorry, can we have the last question read?

(The last question and answer were read back by the Reporter.)

MR. HARRIS: Q Were you given any reason as to why you couldn't speak with your ex-wive?

MR. MICHELICH: Now, it calls for hearsay, Your Honor.

THE COURT: Objection sustained.

[66] MR. HARRIS: May I have one second?

Your Honor, may we approach the bench?

THE COURT: Yes.

(Counsel approached the bench, and the following conversation was held at the bench between the Court and counsel outside the hearing of the Jury.)

MR. MILLER: The objections to the phone conversations are basically hearsay. We don't believe it's hearsay, even though this witness is going to report an out of Court statement. It's not offered for—the statement is not offered for the truth of the matters asserted in this conversation, but to show the effect on this man's mental state, his feelings, what effect it had on him.

And in this case the mental state is very important. It's an issue here, so the feelings and effect on this man is why it's offered, not whether or not it's true, but what was said and its effect on him.

MR. MICHELICH: That all may be, but we don't know what his answer's going to be when asked what was said by Scot.

[67] If we knew what the answer would be, the Court could more intelligently give a ruling concerning whether it would be prejudicial. We don't know what he's about to blurt out.

That's what's troubling me.

MR. MILLER: We could make an offer of proof, Your Honor.

THE COURT: What was his answer going to be?

MR. HARRIS: Pardon me?

THE COURT: Do you know what his answer is?

MR. HARRIS: Yes, sir.

THE COURT: What?

MR. HARRIS: His answers will involve refusals—several refusals to let this man have a change in his visitation arrangement. The conversation will then begin to become obscene and heated, and it will terminate in a most heated fashion.

MR. MILLER: He's going to ask to talk to Joyce. Scot said, "It's too late; you've already talked to her."

"Let me talk to her."

"No, you're not."

"Well, it's about the visitation. I've changed my mind. I want Katy brought to the pool."

[68] "You're not going to see Katy tomorrow. If I had my way, you'll never see her or her mother."

And that's basically—.

MR. MICHELICH: Okay, that's what I was afraid of, Your Honor.

If those are going to be the answers, those are—that's beyond what is admissible under the circumstances.

I don't mind if the answer contain the fact that there was from the other person a refusal to talk with Joyce or anything like that, but what actually was said and what Mr. Miller just got through saying I think is highly improper.

MR. HARRIS: All right.

THE COURT: Go back and I'll make a ruling before the Jury.

(The following proceedings were had in the presence of the Jury.)

THE COURT: The Court's going to permit the witness to testify.

The Jury is instructed that this is an exception to the Hearsay Rule. The answers being received by this Court and Jury are not for the truth of the matters so stated, but to evidence the effect of these [69] remarks on this Defendant, but it doesn't mean that these statements are true.

MR. HARRIS: Okay.

THE COURT: You may proceed.

MR. HARRIS: Thank you very much, Your Honor.

May we have the last question?

(The last question was read back by the Reporter.)

MR. HARRIS: Q Were you given any reason as to why you could not speak with your ex-wife?

A He said she—uh—was in bed, had to work, and that's—.

Q And you had just talked to her minutes before, isn't that correct?

A Yes.

Q Did you repeat your request?

A Yes, I did.

Q What did you say?

A I said, "Scot, I need to talk to Joyce about visitation tomorrow. I need to talk to her."

He said, "No, she's got to get her sleep. Leave her alone."

Q Was that the end of your conversation?

A No, I—I told him—I said, "Okay, why don't you [70] bring Katy to the Municipal Pool tomorrow. That's where I'm going to be."

And he said he wouldn't bring her to the Municipal Pool.

Q Did he give you a reason why he wouldn't bring her?

A He said that he wasn't going to bring her anywhere to see me.

Q And what did you say?

A I told him—I said, "Well, why don't I just come over there right now and get her out of your hair? That way you and Joyce can have some time together."

Q And what did Scot say in response to that?

A He said, "Well, suit yourself, but you're not going to get her."

Q Is that the end of your conversation then with Scot?

A Well, he slammed the phone down in my ear, of course.

Q How did you feel? What were you feeling at the end of that phone conversation?

A Well, the man was trying to take the only thing I had in—had in my life away from me, my daughter, and I just couldn't let him keep my daughter away from

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[71] Q Were you still in a good mood at this time?

A Oh, yes.

MR. MICHELICH: Pardon me?

THE WITNESS: I said, "Oh, yes."

MR. HARRIS: Q You weren't angry over this phone conversation?

A Very little—very little at all.

Q What did you do next?

A I went and got in my car and drove straight over there.

Q Did you do anything between the time you hung up the phone and the time you got in the car?

A Just went straight to my car, just sped out of the trailer park.

Q Why did you speed out of the trailer park?

A I wanted to get to my ex-wife's house as soon as possible to get my daughter.

Q What was going through your mind as you were driving over there?

A The times that I had gotten my daughter on visitation and her being dirty and hadn't been taken care of—uh—the way he cared for her. It just didn't—.

MR. MICHELICH: Objection, Your Honor. This is immaterial.

[72] THE COURT: Objection sustained.

MR. HARRIS: Q How long did it take you to drive over there, Kevin?

A Just a few minutes.

Q Did you obey the speed limit?

A No.

Q Did you stop for stop signs?

A No.

Q Were you angry at this time?

A Yes.

MR. MICHELICH: Pardon?

THE WITNESS: Yes.

MR. HARRIS: Q Did you know where you were going?

A Somewhere on Ninth—Ninth Street.

Q Did you have the address?

A Yes.

Q You say it took you just a few minutes to get there?

A Yeah.

Q How fast did you drive?

A I think 60, 70 mile an hour.

Q So you were speeding across town, weren't you?

A Yeah.

Q What happened as you pulled up in front of [73] that South Ninth Street address?

A Well, pulled up and got out of the car and I had remembered I had given—gotten beat a few months prior to that.

MR. MICHELICH: Objection, Your Honor. This is immaterial.

THE COURT: He may answer. He may state that.

THE WITNESS: And I took a very serious beating and—uh—got thirty-six stitches in the back of the head.

MR. MICHELICH: Your Honor, there has been no connection with this case whatsoever.

THE COURT: Objection sustained.

MR. MICHELICH: Your Honor, I'm going to move that the Jury be instructed to disregard the answer of the witness because it was non-responsive and it contains immaterial and irrelevant matters.

THE COURT: The Jury is instructed to disregard the last remark of this witness.

MR. HARRIS: Q Kevin, as you got out of your car in front of that home on South Ninth, what were you thinking about?

A Just getting my daughter. That was the only thing that was on my mind was getting my daughter and [74] going home.

Q And was Joyce or Scot going to stand in your way?

A No.

MR. MICHELICH: Objection; incompetent.

THE COURT: Objection sustained.

MR. HARRIS: Q Did you take a weapon with you?

A Yes, there was a knife laying in the seat of my car.

Q What kind of knife?

A A huntin' knife.

Q Was it unprotected?

A No, it had a sheath—sheath to it.

Q That's a holder for it, in other words?

A Yes.

Q What did you do with the knife, Kevin?

A I stuck it in my side of my sweat pants, my left side.

Q And what did you do next?

A I went into the apartment building, looked at the mailbox and found what apartment they was in.

Q And what did you do next?

A I went upstairs to the apartment, Apartment 2, and—uh—I beat on the door once, and I could hear my [75] daughter crying. I beat on the door again, and I still didn't get no answer, so I stepped back from the door and kicked it open.

Q Were there lights on inside this apartment?

A Not that I could tell.

Q What did you do next?

A I followed my daughter's cry into the bedroom and—uh—.

Q Did you hear any other noises beside Katy?

A Just some voices in there also.

Q Did you know where you were going?

A Not for sure, no.

Q What happened, Kevin?

A (Witness crying.)

Q What happened as you got close to the bedroom?

A (Witness crying.) Come to the doorway of the bedroom and—uh—Scot and Joyce were setting up in bed, and my daughter was setting on the floor on a pallet crying.

Q Who was sitting on the floor?

A My daughter Katy.

Q And Scot and Joyce were in bed?

A Yes.

[76] Q What happened next?

A I looked at—I looked at and told them I didn't want no trouble; I just wanted my daughter.

Q Was there anything in your hands?

A No, I had my hands out. I didn't want no trouble.

Q What happened next?

A I stepped down in the bedroom and went toward my daughter, and then Joyce started comin' toward me, and I told her, "Stay there, don't even move." And then

I started to pick up my daughter, and then Scot started to roll out of bed and looked like he was reaching for something—I don't know—but that's when I jumped on him.

Q And where was Joyce then?

A She was grabbing my shoulders from behind.

Q And did you fight?

A Yes, we was fightin' on the bed.

Q And what happened next?

A Well, Joyce was pulling me backwards; Scot was pulling me forwards, and finally they threw me into the wall and I hit my head, and then that's when I grabbed the knife.

Q Where were Scot's hands?

[77] A He was pulling my hair and pulling my shirt and everything.

Q Where was Joyce?

A I don't know. She—she was gone; she left.

Q How long did you fight with Scot?

A He still struggled for a little bit and I stabbed him.

Q What do you remember next?

A I just got up and walked into the kitchen, and I had blood all over me and I still had the knife in my hand, and I just looked at Joyce—I just wanted to ask her for help. I just couldn't say nothing.

Q Where was Katy?

A She got up and was walking into the kitchen toward me, and I had to get out of her way and let Joyce pick her up.

Q Was Katy coming towards you?

A Yes—yes, she was.

Q What did you do next?

A Just ran to my car.

Q What did you do with the knife?

A I don't know. I think I threw it out on the way home. I'm not for sure.

Q What did you do with the sheath?
[78] A Threw it out with the knife.
Q What did you do next?
A Well, when I got home I noticed I had a cut on my right arm. It was bleeding a little bit, not bad, so I called 911—911 for assistance.
Q Did you call anybody else?
A Louie—called Louie.
Q You were arrested a short time after that, weren't you?
A Yes.
Q You gave a statement to the police, didn't you?
A Yeah.
Q What did your statement say?
A I said that—I spent time at Lawson's earlier that day, and—uh—and I had cut myself with a knife at home.
Q Did you admit to being in that apartment on South Ninth?
A No, I couldn't—I couldn't admit it.
MR. HARRIS: One moment.
We have no further questions at this time, Judge.
THE COURT: Let's take a recess before cross examination.
[79] Dorothy, take the Jury until ten after eleven.
(A short recess was taken.)
THE COURT: Court's reconvened.
Mr. Michelich, you may cross examine.
MR. MICHELICH: Thank you, Your Honor.

Cross Examination by Mr. Michelich:

Q Mr. Taylor, you didn't ever tell this story that you told this Jury to the police, did you?
A No.
Q In fact, you gave them a quite lengthy statement on the night that they arrested you, didn't you?
A Yes, I did.

Q And the statement you gave to the police was not true, was it?
A No, it was not.
Q When did you first decide that this would be your testimony, Mr. Taylor?
A Couple of months ago.
Q While you were in County Jail?
A Yes.
Q After conversations with your lawyers?
A Yes, sir.
Q Because until then your story was contained in [80] the statement you had given to the police, wasn't it?
A Yes, sir.
Q Which was a lie, wasn't it, Mr. Taylor?
A Yes, it was.
Q Other than your lawyers and Ray Good, had you ever told this story to anybody before you took the stand today?
A No, sir.
Q You did tell Ray Good, didn't you?
A No, sir.
Q Didn't tell him anything?
A No, sir.
Q You told him about the knife though, didn't you?
A No, sir.
Q What he says though was true, wasn't it?
A No, sir.
Q Pretty close to what you said, isn't it?
A No, sir.
Q Well, anyway it's now your claim that you went over there just to see your daughter?
A To get my daughter.
Q At 1:45 in the morning, is that right?
A Yes, sir.
[81] Q Isn't it true, Mr. Taylor, that you intended to Kill [sic] Scot Siniscalchi when you went over there?

A No, sir.
Q That's why you went there, isn't it, sir?
A No, sir.
Q Well, you told your lawyer that on the way over there in the car you became angry as you sped across town to this apartment?
A Yes, sir.
Q That's when you intended to kill Scot Siniscalchi, wasn't it?
A No, sir.
Q You had the knife in your car, right?
A Yes, it was in my car.
Q And you took that with you when you went into the apartment?
A Yes, sir.
Q Intending to use it, didn't you?
A No, sir.
Q Well, your lawyer asked you questions about the phone call on January 15th to Joyce.
A Yes, sir—yes.
Q And you admitted that you had threatened her. You also threatened Scot, didn't you?
[82] A Yes.
Q On that day?
A Yes, sir.
Q And you threatened to kill him on January 15th, 1985, didn't you, Mr. Taylor?
A Possibly, yes.
Q And I believe you told your lawyer that on one occasion when Scot brought Katy over to let her have visitation with you that you had an argument with Scot, didn't you?
A Yes.
Q And you said, "We were arguing face to face?"
A Yes.
Q A heated argument?

A Yes.
Q And that's also when you intended to kill Scot Sinicalchi?
A No, sir.
Q You formed the intent because you didn't like Scot, did you?
A No, sir.
Q And that was in the summer of '85, right?
A Yes, sir.
Q Later on in the summer of '85 you said that [83] while you were at the fair Scot gave you the finger?
A Yes, sir.
Q And laughed at you?
A Yes, sir.
Q Was Mr. Harris right in his opening statement when he said that this hurt your pride?
A Yes, sir.
Q Was he right when he said that you were jealous of Scot?
A No, sir.
Q So your pride was injured, but you weren't jealous of him?
A No, sir.
Q Well, Mr. Taylor, you told the Jury that you went over there because he had the only thing that was important to you.
A Yes, sir.
Q You were jealous, weren't you, Mr. Taylor?
A No, sir.
Q This man was living with your ex-wife—.
A Yes, sir.
Q —who you said you loved?
A Yes, sir.
Q And you were jealous, weren't you, Mr. Taylor?
[84] A No, sir.

Q Well, after the incident at the fair, not only was your pride hurt, you hated Scot Siniscalchi, didn't you?
A No, sir.
Q You didn't like him, did you?
A Yes, sir, I didn't like him.
Q He made you mad, didn't he?
A Yes, sir, he made me mad.
Q He made you mad enough at least in January because you had threatened to kill him. He had made you mad enough during the argument that you had when he brought Katy over because you got right up in his face, and he made you mad then, didn't he?
A Yes, sir.
Q And he made you mad at the fair, didn't he?
A Yes, sir.
Q In fact, he made you mad enough that you threatened his life when you were speaking with Joyce Taylor's mother at the Cottage Inn, isn't that also true?
A No, sir.
Q You did threaten his life, didn't you?
A No, sir.
[85] Q Well, you had on January 15th.
A Yes, sir.
Q And you hated him even more during the summer of '85 after the fair, didn't you, Mr. Taylor?
A No, sir.
Q You hated him just the same?
A Yes, sir.
Q Your hatred didn't grow over time?
A No, sir.
Q You just kept on hating him the same, is that right?
A Yes, sir.
Q Now, on the night in question or the early morning hours of September 14th you still hated him, didn't you?
A Yes, sir.

Q And when you talked with him on the phone he made you madder, didn't he?
A He made me upset, yes.
Q You told your lawyer that you were very upset as a result of that, right?
A Possibly, yes.
Q Possibly?
A (No response.)
[86] Q Your pride was hurt?
A Yes.
Q You hated Scot Siniscalchi?
A Yes.
Q This hatred you had had for him for many months, and you were jealous of him then, weren't you, Mr. Taylor?
A No, sir.
Q Well, you did say that he had the only things that were important to you. He was living with the woman you loved.
A That wasn't the only thing important to me.
Q And your daughter.
A My daughter was the most important thing in my life.
Q So since she's so important, you decided to go and get her, is that right?
A Yes, sir.
Q At that hour of the morning?
A Yes, sir.
Q And you decided that the best thing to do would be to just go right in the apartment and take her, is that it?
A I knocked on the door twice first.
Q Uh-huh.
[87] But then you kicked it in, didn't you?
A Yes, sir.

Q You didn't take the police with you over there that night, did you?
A No, sir.
Q In fact, you didn't park in front of the apartment house, did you?
A No, sir.
Q You parked down the street, right?
A Yes, sir.
Q When you went into the bedroom you saw your daughter in there and you saw a man that you hated, didn't you?
A Yes, sir.
Q And you told the Jury that Joyce was in bed with Scot and that you went over and you jumped up on top of him in bed and struggled with him, right?
A Not at first.
Q Pardon?
A Not at first, no.
Q Oh, what did you say, "Good morning?"
A No.
Q And you had brought that nine-inch butcher knife with you, right?
[88] A No, sir.
Q It was a hunting knife?
A Yes, it was a hunting knife.
Q Pretty good sized knife, right?
A Yes, sir.
Q How long was the blade, at least six inches, wasn't it?
A At least.
Q A large hunting knife?
A Yes, sir.
Q The kind that fits in a sheath?
A Yes, sir.
Q And you put that in your pants, right?
A Yes, sir.

Q And that's where you pulled the knife from, isn't it?
A Yes, sir.
Q And you had that knife in your hand when you went on top of the bed?
A No, sir.
Q When you stabbed the man that you hated, didn't you?
A No.
Q You pulled it from your pants, didn't you?
[89] A Yes, sir.
Q And you stabbed him right there in his bed, right?
A Yes, sir.
Q You stabbed him once, and then what happened?
A I don't know.
Q And you stabbed him again, and then what happened?
A I don't know.
Q And you still hated him, didn't you? In fact, you stabbed him seven times, didn't you, Mr. Taylor?
A I guess so.
Q You don't even know?
A I don't know.
Q Did you lose count?
A I didn't count.
Q You really hated him then, didn't you, Mr. Taylor?
A No, sir.
Q You didn't?
A No, sir.
Q You meant to kill him then, didn't you?
A No, sir.
Q Even though you stabbed him seven times?
[90] A Yes, sir.
Q You were so concerned about your daughter that you stabbed a man seven times to death in front of your two year old daughter, didn't you?
A Yes, sir.

Q And you were so concerned about your daughter you went over there to get her--you didn't even take her, did you?

A No, sir.

Q You left your daughter there that you were so concerned about to watch a man bleed to death, right?

A No, sir.

Q You didn't take her?

A That's right, I didn't.

Q Now, when you came out of the bedroom you saw Joyce reaching for the phone, didn't you?

A No.

Q You don't know?

A That's right, I don't remember.

Q You remember taking the knife with you?

A Yes, sir.

Q You remember kicking in the front door?

A Yes, sir.

Q You remember stabbing a man in his bed?

[91] A Yes, sir.

Q You don't remember jerking the phone from the wall?

A No, sir.

Q You remember telling your ex-wife that you loved her?

A No, but I possibly did.

Q Could have jerked the phone from the wall though, right?

A Possibly, yes.

Q Then you ran?

A Yes, sir.

Q And you ran down the street to where you had parked your car?

A Yes.

Q And you did have those dark brown sweat pants on, didn't you?

A Yes, sir.

Q And a similar top?

A Yes, sir.

Q And underneath those brown sweat pants there was a pair of white shorts, is that right?

A No, sir.

Q Did you put them on when you got home?

[92] A Yes, sir.

Q Where did you throw your bloody clothing, Mr. Taylor?

A In a trash can.

Q Where?

A I started to drive away in my car, and I seen a trash can off to the left. I stopped my car in the middle of the street and took my clothes off and put 'em in a trash can.

Q They were covered with blood, weren't they?

A Yes, sir.

Q They were evidence of a murder, weren't they?

A Yes, sir.

Q And so you decided to conceal evidence, didn't you?

A No, sir.

Q You got out of your car and you took your clothes off. Was this trash dumpster just up the street from where you just killed this man?

A It was a trash can; it wasn't a dumpster.

Q How far away from the apartment building was it?

A A block.

Q Did you drive back to your trailer without any [93] clothes, Mr. Taylor?

A Yes, sir.

Q Did you still have the murder weapon with you?

A Yes, sir.

Q Was it in the car?

A Yes, sir.

Q On the way back to the trailer what did you do with it, Mr. Taylor?

A I think I threw it out the window.

Q Do you know where you were when you threw it out the window?

A No, sir.

Q You concealed more evidence of a murder, didn't you, Mr. Taylor?

A I guess so, yes, sir.

Q And when you got back to your trailer you decided to create false evidence, didn't you, Mr. Taylor?

MR. HARRIS: Your Honor—Judge, I'm going to object at this point. I think the testimony is clear—.

MR. MILLER: It's argumentative, the questions, Your Honor.

THE COURT: He may cross examine.

MR. MICHELICH: Q You decided to create false [94] evidence, didn't you, Mr. Taylor?

A Yes, sir.

Q You took a little paring knife from your kitchen and put your own blood on it, didn't you?

A Yes, sir.

Q And you put your own blood on tennis shoes and white socks, didn't you?

A No, sir.

Q You put them on?

A No.

Q Were you wearing them?

A Yes, sir.

Q So you had shoes on but no clothes?

A Shoes, socks, and underwear.

Q So when you got back to your trailer you put a pair of white shorts on over the top of your underwear?

A Yes, sir.

Q And after you created false evidence by putting your blood on a paring knife, is that when you concocted this story about cutting your own arm?

A Yes, sir.

Q And you told Louie Lawson that you had cut yourself, didn't you?

A Yes, sir.

[95] Q And you had told the police that you had cut yourself, didn't you?

A Yes, sir.

Q That was a lie, wasn't it, Kevin?

A Yes, sir.

Q So now you had concealed two pieces of evidence of a murder, and you had created false evidence at your trailer, and then you lied to the police, isn't that about right?

A Yes, sir.

Q You never told them at all about your daughter, did you?

A No, sir.

* * * * *

JURY INSTRUCTION CONFERENCE

[98] (The following proceedings were had in chambers outside the presence and hearing of the Jury.)

THE COURT: Okay, all set?

MR. MILLER: Yes, Your Honor.

THE COURT: Defendant's Instruction Number 1.

MR. MICHELICH: I object, Your Honor.

This is IPI 7.03. It's based upon voluntary manslaughter and it is based upon sudden and intense passion resulting from serious provocation.

I don't recall any evidence whatsoever that there was serious provocation by the deceased.

Under the law if there is any time at all for the voice of reason to be heard or any cooling off period, as it is called, there can be no sudden or intense passion.

Now, yesterday they attempted to show provocation by events which occurred in May, some five months earlier. The Court ruled that that is too remote.

There has been no evidence subsequently which shows provocation at the time of the murder. In fact, all the evidence shows the opposite. The evidence shows that he became angry while at his trailer across town. He became angry because of the substance of some telephone [99] conversation with the deceased.

Words alone, even over the telephone and under those circumstances, are not sufficient, and the law is clear, I believe, that words are not sufficient to excite such a sudden or intense passion.

Even if those words were sufficient, under the law to excite such a passion there was a cooling off period as he drove across town, so the phone call can't give rise to involuntary—or to a voluntary manslaughter instruction.

When he arrived at the apartment there was no argument whatsoever. In fact, all the evidence shows that he broke in the door. He was committing a forcible felony.

He then became the aggressor, and under 7-4 of Chapter 38 an aggressor who is performing or committing a forcible felony cannot claim justification of any kind.

Here we have a person who is knocking on the door, going immediately to the bedroom and jumping on top of the victim who he stabs.

So, I can find no provocation at all in the record.

THE COURT: Mr. Miller.

MR. MILLER: Yes, Your Honor, I believe what Mr. [100] Michelich is arguing is incorrect.

I have three cases here that I'll cite to the Court where words alone were justification—or were provocation.

He is correct in the general statement of the law that ordinarily it's not, but it's not an absolute rule.

And I would cite these cases: People versus C-u-r-w-i-c-k, 33 Illinois Appellate 3d 757; People versus Newberry, 127 Illinois Appellate 2d 322; and People versus Ahlberg, A-h-l-b-e-r-g, 13 Illinois Appellate 3d 13—I'm sorry—1038.

But there is evidence in this record of provocation, and whether or not it's serious provocation that would insight intense passion in a reasonable person is a Jury question, a question of fact.

We believe there is enough evidence in this record to give that question to the Jury.

And as to the cooling off—as to the cooling off period that he alludes to, there is no magic time period.

The question whether or not if a sufficient period of time—in this case the evidence shows a few minutes—that he drove this—from his trailer to this [101] apartment in a matter of a few minutes—whether or not he'd cool off or should have cooled off is another question of fact.

And I cite People versus Hudson, H-u-d-s-o-n, 71 Illinois Appellate 3d 504, in support of that proposition.

We believe the record does have enough evidence in it to create a question of fact that would allow this instruction, and we think it's a Jury question.

THE COURT: You want to say anything else?

MR. MICHELICH: Other than the threshold question is not a question of fact; it's a question of law in order to get the instruction to the jury. And I believe under the evidence of this case it is simply not based upon any evidence that shows any provocation at the time of the killing.

THE COURT: Well, serious provocation, as the instruction indicates, is conduct sufficient to excite a reasonable person.

The Court's going to let the Jury decide what—what is a reasonable person, whether that provocation existed here or did not exist here.

The Court's going to give the instruction over the objection of the State's Attorney.

[102] You have the same objection to Defendant's Instruction Number 2?

MR. MICHELICH: Yes, sir.

MR. MILLER: Your Honor, I would point out to the Cour [sic] that I have modified that by one word.

THE COURT: What's the word?

MR. MILLER: I removed the word "the State must prove" and substituted "the evidence must prove."

Ordinarily, I think the manslaughter may be offered by the State as an alternative for a lesser included in some certain cases, but in the case here we've introduced that evidence showing the provocation, so I think that so the Jury is not confused that that substitution should be made.

THE COURT: It will be given as tendered.

Now, I have a verdict form here—four verdict forms. Is that—is that how many verdict forms there are?

MR. MICHELICH: If the Court gives the—.

THE COURT: There are six of them.

MR. MILLER: There are six of them.

MR. MICHELICH: There should be if you give the voluntary.

[103] MR. MILLER: I didn't bring one with six.

MR. MICHELICH: I believe that one word should be changed.

THE COURT: Is that the only place it appears, six?

It will be given as tendered.

I've got not guilty of the offense of murder, not guilty of the offense of home invasion, guilty of the offense of murder, guilty of the offense of home invasion, not guilty of the offense of manslaughter and guilty.

I find an instruction here—.

MR. MILLER: Yes, that's Number 5.

THE COURT: Did you just hand me that?

MR. MILLER: Yes, I just did.

THE COURT: Have you seen it?

MR. MICHELICH: Yes, I believe it's the same one I offered.

MR. MILLER: Did you offer it?

MR. MICHELICH: Having to do with a witness' conviction?

THE COURT: You gave that, didn't you?

MR. MICHELICH: 3.12 of IPI.

MR. MILLER: I'll withdraw it.

[104] THE COURT: Okay.

Do you fellows want to be timed on your arguments?

MR. MICHELICH: I don't care, Judge. I don't demand any limitation.

I would like to know if they intend to split up their time. It doesn't make any difference really but—.

THE COURT: Are you going to split yours?

MR. MILLER: No, we're not.

THE COURT: Who is going to argue?

MR. HARRIS: I am.

MR. MILLER: David.

THE COURT: I had one criticism from the Jury. They couldn't hear you at times, so in your argument if you'll project your voice a little bit.

MR. HARRIS: Very good.

(A short recess was taken.)

MR. MICHELICH: Judge, I asked for a moment to find a specific case because of the current state of the law in Illinois regarding murder and manslaughter. Right now it's up in the air because of the decision of the Fourth District in People versus Bolden.

I realize the Court has a duty to give the [105] Defendant a fair trial, which I want as well, because I don't want to have problems on appeal.

I would ask the Court to reconsider the grant of the instruction of manslaughter in this case. I don't believe, Judge, that under any circumstances the denial of a manslaughter instruction here would be cause for reversible error, and I say that because all of the cases that I have found require a sudden or intense passion.

Your Honor stated that the reason you wanted the Jury to decide was to determine whether it was a passion in a reasonable man. I don't dispute that. What I do dispute is the legal grounds for allowing the Jury to make that factual determination.

The legal grounds are that it was a sudden passion. The facts of this case show that there was no sudden passion at all, and so I don't think the legal grounds exist to allow the Jury to determine whether the provocation would be such that it would excite a passion in a reasonable man.

My point in urging the Court to rule out the Jury instruction tendered is because of the confusion that it would create in the mind of the Jury.

Under People versus Bolden, the Appellate [106] Defender claimed on appeal that the law of Illinois does not provide for manslaughter as a lesser included offense of murder, because in manslaughter there is one additional element.

Ordinarily, where there is a lesser included offense, the lesser included offense has one less element or something like that—fewer elements than the greater offense. But under our law since 1961 when we eliminated malice aforethought we changed that to intent, and murder requires intent.

Manslaughter requires intent, but in the two types of manslaughter an additional element, the first being that there was a belief that there was a danger and that be-

lief was unreasonable, the self-defense situation and the situation here, the second time where the Defendant claimed provocation.

So in People versus Bolden which I argued in the Appellate Court—the decision in that case was issued by Justice Webber who stated that they're really not sure that manslaughter is a lesser included offense in Illinois of either kind, and it was their holding in the Bolden case that the State must negate the elements of voluntary manslaughter in the murder charge such that in our instruction for murder we have to add another element. [107] In this case we would have to add that the Defendant was not under a sudden or intense passion resulting from serious provocation. That requires the State to negate that.

The elements of murder so far are twofold. First, that the Defendant did the act, and, second, that he had the intent to do the act in one of the four alternative ways.

But under Bolden they're holding or seemed to hold that now if the Court gives the Jury an instruction as to voluntary manslaughter we have to add another element in the murder instruction that requires the State to negate the form of voluntary manslaughter tendered.

While there is language in Bolden which says that voluntary manslaughter of a sudden and intense passion is an included offense of murder, they have cited People versus March (phonetic) and People versus Hoffer (phonetic). They have in part overruled People versus March, and the state of the law in this area is confusing, to say the least.

We have appealed the Bolden decision to the Supreme Court, and I don't believe it's been argued there yet. [108] My next point, Your Honor, is that where we have—since the Bolden case where we have confronted this problem we have asked the Court—and the Court on one occasion—I believe Judge Cavanaugh has given another in-

struction which is not an IPI instruction, and in that instruction it attempts to straighten out for the Jury whether or not they are to reach a verdict as to both murder and manslaughter.

As the Court is aware, if they found him guilty of murder but not guilty of voluntary manslaughter, the verdict might be contradictary. [sic]

And rather than allowing the lawyers to have a crack at explaining the law, this complex law during closing argument, we have offered an instruction to this effect: That the Defendant is charged with both murder and manslaughter. If you find the Defendant guilty, you must find him guilty of either offense, not both. But, on the other hand, if you find him not guilty, you can find him not guilty on either or both of the offenses, which would clarify the question in their minds.

And in past cases I've had questions from the Jury during their deliberations: Must we render a verdict as to both? And, of course, they need not render a verdict as to both.

[109] In fact, it was in the Bolden case where there was a question from the Jury while deliberating as to whether they needed to do that, and Judge Terrill responded that they may but need not.

Fortunately, they didn't, and they only found as to murder.

My reason for going through all this here, Judge, is that I believe it unduly complicates this case. It requires us now to completely redo the murder instructions if, in fact, Your Honor, would hold that Bolden is applicable.

I'm not even sure it is.

The Bolden opinion is very long and involved and, I dare say, the reasoning convoluted in many places, and it is not yet the law in Illinois. It is simply the law in the Fourth District, and I believe that it's very difficult to say what Bolden actually stands for.

I think the Court would be on very solid ground in refusing the tendered instruction as to manslaughter, and I request the Court to reconsider not only in light of the complexities of the law but in light of the fact that there is no evidence to support it.

I would ask counsel to demonstrate what [110] evidence there is that shows a sudden and intense passion without time for the Defendant to reflect, without time for a cooling off, and without time for the voice of reason to be heard.

THE COURT: Is that the instruction that Judge Cavanaugh has given?

MR. MICHELICH: It was given in the Bilyeu case, yes.

THE COURT: Is that an original of one?

MR. MICHELICH: It says it was offered by the Defendant, and I believe in that case our office and the defense attorney—.

THE COURT: The Court has reconsidered whether or not it's going to give the manslaughter charge, and the Court's going to give the manslaughter charge. I'll give this instruction along with it.

MR. MICHELICH: Do we have to change the murder?

THE COURT: I don't think so.

I don't know what Bolden says.

MR. MICHELICH: Well, the result of Bolden was contradictory in its reasoning.

THE COURT: I'm going to give the Appellate Court another shot at it.

MR. MICHELICH: That's all right, Judge, I [111] understand your reasoning. I just don't want to knowingly create error here.

THE COURT: We're not doing it knowingly; we're doing it out of ignorance.

MR. MILLER: Is that a Court's instruction?

THE COURT: That'll be a Court's instruction, because they'll be asking that question anyway.

(The following proceedings were had in the courtroom, in the presence of the Jury.)

THE COURT: Court's reconvened.

Mr. Michelich.

MR. MICHELICH: Your Honor, the People have no evidence in rebuttal.

THE COURT: That concludes the case for both sides then?

MR. MICHELICH: Yes, Your Honor.

THE COURT: You may argue the case then.

CLOSING ARGUMENT FOR THE PROSECUTION

MR. MICHELICH: May it please the Court; counsel; ladies and gentlemen of the Jury.

First, I want to express my appreciation to you for your service as jurors in this case.

The system of justice that we have in this country, as all of us are aware, we're very proud of [112] it. It is the best system of justice that we've been able to devise in the world, and I believe that is due to the fact that we have citizen participation in our system of justice, and I want to thank you for your direct participation in that system.

We're here because in our country every Defendant charged with a crime has the right to have his case heard in a court of law before a jury of his peers, and he has a right to have his day in court.

We have provided Kevin Taylor with his day in court, and it will soon be time for you to retire and deliberate upon your verdict.

The purpose of a closing argument, as the Judge indicated earlier in the case, is for the opportunity—for the lawyers to have an opportunity to discuss the facts and circumstances of the case and to discuss with the Jury what the evidence has shown.

Each side has an opportunity to deliver a closing argument. Because the State has the burden of proof in a criminal case, I go first, and I will be followed by one of the defense lawyers, and than I will have a chance once again to address you on behalf of the People in rebuttal after the defense lawyers have had their opportunity to speak with you about the [113] case.

Ladies and gentlemen, this has not been a long or difficult case for the evidence is not that complicated, and in fact, it's a very clear-cut case.

I urge you to consider all the evidence, however, as you heard it from the witness stand and the exhibits that you have seen introduced into evidence.

And during our closing arguments—a good closing argument should do a few things to help the Jury.

First of all, it should focus on the issues of the case, that is to say, what is actually in issue in the case.

A good closing argument should also identify the elements of the offenses and address itself to how those elements have been proven and what evidence there is to support those elements, and in that way the closing arguments will assist the Jury in determining what the facts are.

You will be instructed by Judge Friedman as to what the law of the State of Illinois is and how the law is to be applied to this case.

You heard Judge Friedman tell you in Jury [114] selection that you're to follow the instructions of the Judge and apply that law to the facts of this case and thereby rendering your verdict.

You will be instructed, therefore, about the elements of the offenses that are charged here.

When I use the word "elements" I mean that is the law's way of breaking something very complex down into its parts and defining its parts.

You'll receive an instruction that these are the elements of the offenses involved.

Now, as I indicated to you in my opening statement, the first offense is the offense of murder, and you will be instructed that there are two elements to the offense of murder.

The first element is that the Defendant performed the acts which caused the death of the deceased, Scot Siniscalchi, and the second element consists of any of the four alternatives that I mentioned to you in my opening statement. Those four alternatives are different legal ways of saying the same thing.

If you find the first element to exist, that the Defendant performed the acts which caused the death, then you may pick any one or all of the four elements or the four alternatives to comprise the second element of [115] the offense of murder.

Now, the first element, as I have said, is that the Defendant performed the acts, and under the second element here are your four choices: He intended to kill or do great bodily harm, or he knew his act would cause death or great bodily harm, or he knew his acts created a strong probability of death or great bodily harm, or, fourth, he was committing the offense of home invasion.

Those are the two elements of murder, and the second element is found in any one or all four of those alternatives, so really murder is only two elements and is not as complicated as we may think it is.

The other offense is the offense of home invasion.

Home invasion is a bit more complicated, because it has four elements, and you will be instructed that home invasion contains these elements: First, that the Defendant is not a police officer.

Now, you heard that at no time in his life has he ever been a police officer.

Second, that he knowingly entered the dwelling place of another. You heard evidence that he kicked down the door to the apartment of his ex-wife and entered the [116] apartment.

The third element is that he knew that one or more persons were present inside the dwelling. Of course, he said he knew they were in there. That's why he kicked in the door. He had just talked to him on the telephone only moments before.

And the fourth element is that once he got inside, he intentionally caused injury to somebody inside the apartment, and he intentionally caused quite an injury to Scot Siniscalchi.

So, those are the four elements of the offense of home invasion.

You will be instructed that those are the elements of the offenses with which he is charged.

I have presented to you during the course of this trial all of the evidence in behalf of the People of the State of Illinois which shows that every one of those elements have been satisfied beyond a reasonable doubt.

Ladies and gentlemen, this is an overwhelming case of intent to kill. This is an overwhelming case involving deliberate premeditated hatred and murder, and all of the elements that are required to be proven have been proven overwhelmingly, not only by the State's case, [117] but by the Defendant's own testimony from the witness stand.

I want to review with you just briefly the State's evidence in this case. I don't believe any useful purpose would be served by me going through it in detail because I'm sure that you all recall exactly what the State's witnesses said.

You heard the testimony of an eye witness to this case, Joyce Taylor.

It is fortunate indeed when the State is able to provide the Jury with an eye witness to a brutal murder who

survived to tell about it, and in this case you heard the testimony of Joyce Taylor.

You heard her describe to you in graphic detail how, while she was in bed with Scot Siniscalchi, asleep a little bit before two o'clock in the morning on September 14th the door was kicked in. You heard her describe to you her horror as she saw that man come into the bedroom and jump on the bed and jump on Scot.

You heard her describe to you her horror as she saw the knife blade come from his pants where he told you he had it, and you heard her describe to you the horror as she saw him plunge the knife into her boyfriend as she got out of that bedroom to use the [118] telephone, and you heard her describe the words used by Scot Siniscalchi as he yelled, "You're killing me, Kevin; don't do this," and then as he yelled to Joyce, "My God, the knife is in me; I can feel the knife in me."

Yes indeed, it is very fortunate that we're able to provide you with an eye witness to this case, the same eye witness who saw that man come into the bedroom after he kicked in the door, who saw that man come out into the kitchen and ripped the phone from the wall to prevent her from calling for help and who saw that man run out of the apartment house, slamming the front door where he left his bloody palm print. That's the eye witness.

Without one more bit of evidence, without one more witness or piece of evidence, this case is proven overwhelmingly by the testimony of that eye witness.

We presented to you also the testimony of the neighbors who heard the ruckus, if you will, and noted the time, when they were awakened in their bed at 1:47 A.M., Jim and Tammy Cottrill.

You heard the testimony of Tim Griffin, who occupied an apartment sharing a wall with the bedroom where this murder took place, and he heard the scuffle, [119] and you

can bet that he heard it when, as you see in one of the photographs, where during the scuffle a large hole was knocked in the wall of the bedroom through the drywall, and when Tim Griffin heard that struggle in the next apartment, he got up and looked out the window when he heard the door slam, just as Joyce told us the door slammed when he went out and just as the Cottrills told us they heard their front door slam very hard, just before they got to their front door to meet Joyce Taylor. Tim Griffin also heard the front door slam as the Defendant fled from the building leaving his bloody palm print on the door.

Mr. Griffin looked out the window, and he saw the man run across the front and down the street.

And then you also heard the testimony of John Voorhees, who lived across the street and heard the dispute across the street and looked out to see the man in dark clothing, he described, run from the building.

But this doesn't really even prove much. It's more than—it's just icing on the cake, because as I have said, the eye witness proves everything in this case, and furthermore all of what I have just told you has been admitted by that man from the witness stand in front of you today.

[120] You heard testimony from the pathologist, Dr. John Murphy, as to the cause of death of Scot Siniscalchi.

Dr. Murphy went to the scene, inspected the scene, took photographs and performed the autopsy.

He testified that Scot Siniscalchi died as a result of massive bleeding. In common terms, he bled to death on the floor of the living room, due to seven stab wounds, and you saw photographs of them, the most lethal of which was the large gaping hole in the side of Scot Siniscalchi, which was so deep that it cut his liver in two.

You heard then the testimony of various police officers who investigated this case, who went to the apartment,

who took statements from witnesses, Officers Sanders and Schweska, who said they arrived at about 1:53.

And you heard testimony from Officers Baughman, Daley, and Redpath, who went right to the Defendant's trailer and placed him under arrest, and when he was placed under arrest he had scratches on his face, a cut on his arm, and blood on his clothing.

Also, you heard the testimony of Officer Baughman as to an incident which occurred some eight months prior on the 15th of January, 1985, when he [121] happened to be the officer called to the home of Joyce Taylor's mother for the complaint of threatening phone calls, and that he just happened to be there when the phone rang again, and Officer Baughman overheard the man identified to you by Joyce Taylor as the man who she had heard on the telephone when he threatened to kill Scot Siniscalchi eight months before he finally did, and finally carried out his intentions towards Scot.

You also heard the same testimony from Joyce Taylor who told you about the phone call and about the threats that she had gotten from her ex-husband.

You heard evidence of another expression of intention by that man who told June Phares, the mother of Joyce Taylor, what his intentions were during the summer when he met her and saw her at the Cottage Inn on MacArthur and Calhoun.

He told her that—and you'll recall her words—that he was going to get Scot some day or he was going to get even with Scot some day. No matter how long it took, he was going to get him some day, another expression of his state of mind and his intention to do what in fact he did on September 14th.

Then you heard the testimony of Detectives Watts and Tavenor who matched the fingerprint on the [122] door, the fingerprint—or rather the palm print in blood which was transferred on the side of the door and which you

have heard was matched by way of the latent fingerprint to the inked palm print of the Defendant.

Again, we're fortunate indeed to be able to present to you a positively identified palm print, but it's just icing on the cake, isn't it, where the Defendant has taken that stand and has admitted it to you.

You also heard the very unusual testimony from a cell mate of the Defendant while they were in the same cell block at the Sangamon County Jail, the testimony of Ray Good, who was so shocked by what he heard Kevin Taylor say that he contacted me by that letter there to volunteer the information that he had heard from the Defendant himself.

Now, the Defendant admitted it to you, ladies and gentlemen, when he testified.

It's certainly not too much to believe that he also admitted it up in the County Jail.

The one difference, however, the very chilling difference is that Ray Good told you that when he told him about what he had done, the Defendant thought it was funny and laughed about what he had done as if to brag about what a big man he is. That was not the Defendant [123] you saw on the stand today, but the Defendant admitted it, nevertheless, to Ray Good, and he told Ray Good that he took that big knife with him, that he kicked in the door, that he jumped on top of Scot Siniscalchi, and that he stabbed him to death.

And Ray Good volunteered that information. Ray Good, while a convicted felon, may be a burglar, but even he was shocked at what he had heard from the Defendant.

You heard that he volunteered this information and that he's not gaining from it at all and that he wanted to come forward and tell you what the Defendant had told him about this horrible offense.

Ladies and gentlemen, that is the evidence that I have presented to you on behalf of the People of the State of

Illinois in brief preview which proves overwhelmingly that the Defendant is guilty of the offense of burglary and of home invasion.

There is no doubt from the Defendant's own testimony that he performed the acts which caused the death of Scot Siniscalchi, element number one.

I submit to you that there is also no doubt whatsoever that element number two is satisfied, that he intended to kill Scot Siniscalchi. In fact, he had [124] intended to kill Scot Siniscalchi for quite some time.

This, ladies and gentlemen, is an intentional, deliberate, premeditated, cold blooded, brutal murder, and there is no two ways about it.

We heard the testimony of the Defendant who took that stand and told you that he hated Scot Siniscalchi. He said he had hated him for a long time. He said that he was angry at him.

His own lawyer used the term "his injured pride" in his opening statement to you, and I believe he also used the word "jealousy."

Here is a man who is jealous and whose pride has been hurt, who is angry and who hates another person.

Ladies and gentlemen, that adds up to one thing, and that is intent to kill, and you heard it from that man's mouth.

It'll be interesting to hear what defense there is when you hear from the defense lawyer during closing arguments because I've heard none from the witness or from the evidence that defense presented.

This was not an accident. This was not self defense. This was not temporary insanity. It was not said he didn't know what he was doing. He admitted it, for heaven's sake.

[125] So it will be very interesting indeed what we hear.

Anger and hatred had been on his mind for a long time. He had thought about it. He thought about it in January

when he threatened to kill Scot Siniscalchi over the telephone. He thought about it—and he admitted this when they had the argument—he said, "We were face to face; we were arguing like this face to face," when he brought his daughter over for visitation. He thought about it then because he said he hated him even more.

He thought about it when he had the confrontation with Scot at the State Fairgrounds.

Hurt pride, anger, hatred—and he thought about it when he told his former mother-in-law at the Cottage Inn that some day he would get him.

This had been on his mind for a long time. This was not anything new to Kevin Taylor. Hatred was not new to Kevin Taylor. Anger was not new to Kevin Taylor.

He had a job to do. He had a purpose in mind, and he did it. He went about it very effectively.

He went over there at a high rate of speed. He took a knife with him. He kicked in the door, and he stabbed a man to death, the result, ladies and [126] gentlemen, of the very basic emotion of hatred and anger.

I submit to you, ladies and gentlemen, that not only has the State's case been proven overwhelmingly beyond a doubt whatsoever that the Defendant is guilty that his own testimony admitting what he did shows that he is guilty.

I urge you when you deliberate to return the only verdicts based on this evidence and the only just verdict that can possibly be returned, and that is a verdict of guilty to the offense of murder and home invasion.

Thank you.

THE COURT: Mr. Harris.

MR. HARRIS: Thank you, Your Honor.

CLOSING ARGUMENT FOR THE DEFENSE

Ladies and gentlemen, I promise to keep my voice up during my closing remarks.

I will be addressing you at this time on behalf of my client, Kevin Taylor, and this will be the only time that we will address you. We're not allowed to address you further.

Mr. Michelich, however, he is, and I'm sure that he will make remarks following ours.

There is a great deal of evidence in common here, evidence which has been brought to light by the [127] State and evidence that has been brought to light by the defense. That evidence is subject to your interpretation. Who do you believe? Whose version is more believable?

There is a great deal of common evidence here. The very evidence that the State wishes you to believe gave Kevin Taylor his premeditated disposition to kill Scot Siniscalchi can only be interpreted as provocation.

Besides or in addition to the instructions for murder which Mr. Michelich described, you will also be given an instruction on a crime called "voluntary manslaughter."

Voluntary manslaughter by its very sound, its very definition, involves the death of a human being, the killing of a human being, just like murder, but the law that you will be given to follow in considering whether or not this was a manslaughter case or a murder case involves an additional element, and the additional element is that there was a killing of a human being. Someone has lost a life, but at the time of the killing the person accused of that killing acts under a sudden and intense passion, sudden and intense passion resulting from serious provocation—[128] serious provocation.

This common evidence that I've referred to we feel establishes serious provocation, and as a result of that serious provocation Kevin Taylor's actions at 1:47 or 1:53 that

morning were the result of a sudden and intense passion resulting from this provocation.

What provocation? What provocation?

This common evidence that you've heard shows that as far back as November of 1984 there was a confrontation between Kevin Taylor and Scot Siniscalchi, and it took place in Scot's car on South Holmes Street in Springfield, and Kevin's wife was with Scot and Kevin knew it, and Kevin saw it, and Kevin saw them kissing or embracing, and he reacted.

He pounded on the hood of the car for them to stop, and he grabbed ahold of the car door and the driver took off down the street dragging him along.

That was the first encounter that Kevin Taylor had with Scot Siniscalchi, and, as you have heard, it was not the last. There were many more.

Provocation is what we're talking about here. Even though Kevin and Joyce reconciled, it was just a matter of days before Joyce moved from the apartment again—from their trailer again, leaving Kevin with his [129] toddler at that time, year old daughter—fourteen months, something like that.

And when a second chance of getting their marriage back together didn't work, Joyce left again, this time for good. She never returned to that trailer to live as the wife of Kevin Taylor.

In December of 1984 Kevin decided to file for divorce, and he did, and he had custody of his daughter and he wanted it to stay that way.

He asked for custody, but it was short-lived.

In early January Joyce, his wife at that time, accompanied by law enforcement agents, came back to the trailer and took custody of Katy—physical custody at that time.

Common evidence—January 15th, 1985, six or seven or eight phone calls from Kevin Taylor to Joyce, one of them overheard by a policeman.

He was suicidal; he threatened Joyce's life; he threatened Scot's life; he had nothing to live for at that particular time; he was despondent; he was depressed.

And over the next few months it was apparent from the testimony that you've heard that Joyce and Scot began living together, and in April of last year, 1985, [130] Kevin and Joyce were divorced.

Joyce was awarded custody.

I'm sure that the threats of January 15th had something to do with that.

But it was also at this time that Kevin decided or realized that he wasn't going to get his job back and he better get himself together, and with the support of his family and a student loan he enrolled in cosmetology school, learning a new trade, something that he'd be interested in.

And for at least some period of time things were rather smooth between Kevin and Joyce.

Common evidence. Common evidence is that during this period of time both Scot and Joyce would provide transportation to Katy to bring her to her father most every weekend. Her visits were arranged by Joyce calling Kevin. I'm sure at some times Kevin would call Joyce, but there were other times when Kevin and Joyce would see each other.

And Joyce Taylor admitted on cross examination that she'd shared her feelings with her husband—her ex-husband after the divorce.

She would visit Kevin often. She would call him once or twice a week.

[131] Again, common evidence.

Provocation?

In early May you heard testimony that Scot, while in the process of dropping Katy off, had a face to face shouting match, screaming match, confrontation with Kevin.

No blows were exchanged. They did not fight or wrestle. There was no physical contact between them.

Common evidence again. It's not in dispute.

There was a confrontation; there was an argument face to face.

Provocation?

The State relies heavily on the testimony of Joyce Taylor. She's an eye witness.

There is only two people can can [sic] testify as to what happened inside of that apartment, Kevin and Joyce, and there is only really one person who can testify as to what happened after Joyce left the bedroom during the struggle.

Joyce admitted on cross examination that she shared her feelings with Kevin, that they talked about reconciling, problems that she and Scot were having.

There was testimony concerning requests by Joyce for early child support, arguments over money, and [132] yet Mr. Gill, whom you heard yesterday afternoon, testified that sometime last summer Joyce called Kevin who was there, Kevin was out the door leaving Mr. Gill to Kevin's guest to get a haircut.

In spite of all their problems they still communicated and they still had something in common. They had a daughter, and they had to deal with each other, visitation, and they dealt with each other and they communicated with each other once or twice a week or more.

Kevin knew what was going on with Scot and Joyce. She kept him informed. She kept him informed. They had no choice but to communicate and keep in touch with each other.

Serious provocation, sudden and intense passion, serious provocation, hatred, and anger? Yes, those words have meaning here by Kevin's own testimony.

Do those confrontations, do those prior threats, do those sharing of problems and concerns by an ex-wife to her

ex-husband constitute serious provocation? That will be for you to decide.

The State would have you believe that this is not serious provocation resulting in sudden and intense passion, but rather that these phone calls and meetings [133] and confrontations showed a plan, an intent, a premeditation for Kevin to kill Scot.

He had threatened it. He didn't carry that threat out though in January of '85, face to face confrontation a few months later. No blows were exchanged.

The State would have you believe that these acts constitute a plan, an eight-month long plan to get Scot Siniscalchi some day.

In September of 1985 when this happened, Kevin and Joyce both knew that Scot would be going to the penitentiary soon. Kevin and Joyce talked about getting back together.

If these types of thoughts constitute an intent to kill, why wasn't there serious confrontations or battles, combat before September of 1985?

On the night preceding the murder—excuse me. On the night preceding this incident, Kevin Taylor had no thoughts of violence or confrontation.

If this was such a premeditated plan, could he hold that into himself? Could he be celebrating his birthday with friends?

In our opening statement we asked you to consider two periods of time, one from beginning of November, 1984 and ending in September of '85, and the other time [134] period lasting from about one o'clock in the morning on the date of this incident until two o'clock in the morning.

The evidence is very clear from common testimony that at one o'clock in the morning or close to that violence was the furthest thing from Kevin's mind.

You heard the Lawsons testify. At one o'clock that morning when Kevin went home, he was in a great mood. He was celebrating with his friends. He had a birthday to look forward to. He had visitation to look forward to. He made plans for the next morning. He made plans for the day after that.

Common evidence.

At one o'clock that morning Kevin was a reasonable person, no harsh words, no arguments, no discussion concerning Scot or Joyce, discussion concerning Katy, future plans.

And the common evidence will show that shortly after one that morning when Kevin called Joyce to arrange for visitation, Joyce testified that he was calm, he was bright, and he was cheerful.

So, Kevin was reasonable at 1:15 that morning, and a simple slip of mind, simple mistake—he'd forgotten this date the next morning, spending the day at the pool [135] with his daughter and another young lady. He called back—he called back, and this time he spoke with Scot.

Now, until that time, ladies and gentlemen, I don't think there is any dispute in the evidence by Joyce's testimony or the Lawsons' testimony that Kevin was in a cheerful mood looking forward to the events that weekend.

Then the mood changed.

A simple request to speak with his wife—his ex-wife concerning this minor change in plans, and you heard testimony that there was argument between these two men.

Joyce Taylor testified she heard at least three times leave them alone,—or, "Leave us alone," words to that effect, and whatever else took place during that conversation, and Scot slammed the phone down, changed that young man, changed his mood, changed his state of mind, and set him on a course that we all know how it ended.

Sudden—sudden passion.

At one o'clock he was reasonable, left Lawsons'. 1:15 he talked to Joyce; he was reasonable, cheerful, polite.

Sudden? Yes, it was sudden. It was a result [136] of that second phone call.

And after that second phone call Kevin jumped in his car and sped across town. He didn't drive slow. He didn't stop for stoplights or stop signs. He drove like a maniac to South Ninth Street.

And, yes, he was angry. Yes, he was incited. He was going to South Ninth Street to get Katy. He was going there—he knew where he was going.

And within a few minutes he found himself at the front door of this apartment building, and a moment later he found himself outside the door.

When his knocks went unanswered, he forced his way through the door.

Intense—intense passion.

A few minutes earlier the thought had not even crossed his mind.

He took no precautions. He couldn't have planned this action.

As Kevin entered that apartment—and you heard it from him—he told you like it was—as he followed the sounds from his daughter, the sounds from Joyce and Scot, as he entered the bedroom he stood at the doorway; he was boiling. He had just forced his way through that door, and he said, "I don't want any trouble. I just [137] come to get Katy."

Joyce made a movement. He told her to stay there. Scot made a movement, and all hell broke loose.

And these men became involved in a struggle, an intense struggle, a life and death struggle. And Joyce was involved in it, and there was screaming, and there was yelling, and the man across the street was awakened by the screams.

That's what kind of scene this turned into, Pandemonium, mayhem.

Intense passion? Intense act?

Kevin testified that he stabbed Scot. Yes, he did. He admitted it.

His actions afterwards show his lack of premeditation.

Could he possibly think that his ex-wife could not identify him? Could he possibly think that?

He looked at her for help, as Joyce testified, with a blank look on his face. He told her he loved her, and he ran out the door.

We submit to you that his actions were sudden and intense.

The jury instruction that you will take with you states that at the time of the killing the accused—[138] the accused acts under a sudden and intense passion resulting from serious provocation.

We have discussed those elements of serious provocation, be they confrontations in November of '84, Scot and Joyce in the car, be they threats back and forth in early 1985, be they face to face confrontation with this man a few months prior, be they obscene gestures a month before this incident.

Serious provocation?

We feel there is serious provocation here.

And the second phone call from Kevin to Joyce's apartment between—the conversation between Scot and Kevin incited—excited Kevin Taylor, who up until that time was celebrating with friends, looking forward to the next day, looking forward to visitation with his daughter, which Scot was going to deny. Kevin was a reasonable person at one o'clock that morning. He was a reasonable person at 1:15 that morning, but at 1:30 with that phone call and that breakneck drive through town that was a sudden and intense onslaught for him of emotion, feelings, the result of serious provocation over ten months—ten months.

A person who plans an act like this doesn't make plans for the next day or that weekend, the new few [139] days.

This is a tragedy that's happened here. It certainly is a tragedy for the people involved and their families.

Perhaps it was that thought or those feelings which prompted Joyce Taylor as she sat on the floor with Scot to say, "I'm sorry—I'm sorry."

But try as she did perhaps at times to keep these men from confrontation, they confronted each other that morning after that second phone call.

This is no laughing matter. Kevin Taylor did not laugh today when he took the witness stand.

And we're not asking you, ladies and gentlemen, to justify that killing. We're not asking you to justify what happened on South Ninth Street.

We're asking you to rememver [sic] the common evidence, threats, confrontations, divorce, problems with visitation. We're asking you to keep in mind especially the time elements involved here. It's just crucial. It's crucial to your determination. I can't stress it enough.

At one o'clock Kevin had no thoughts whatsoever of even going to South Ninth Street, let alone engage in an act of violence. It was the last thing on [140] his mind.

And during his conversations with his ex-wife there was no animosity, there was no hatred, there was no threats. It was the furthest thing from his mind.

Sudden and intense passion resulting from serious provocation.

We have discussed serious provocation leading up to the phone call with Scot. We have discussed serious provocation for sure as a result of that phone conversation with Scot, and within a few minute, how ever long it took him to drive the way he drove to South Ninth Street, this happened.

We're not asking you to justify this killing. We're asking you to consider the elements of voluntary manslaughter as you deliberate on the fate of this young man.

We're asking you to find Kevin Taylor not guilty of murder, but guilty of voluntary manslaughter.

Thank you.

THE COURT: Dorothy, let's take a ten-minute break.

(A ten-minute recess was taken.)

THE COURT: Court's reconvened.

Mr. Michelich.

MR. MICHELICH: If it please the Court.

REBUTTAL ARGUMENT FOR THE PROSECUTION

[141] Members of the Jury, you are being asked to justify this murder because of some difficulty that the Defendant had in his own mind concerning his divorce. You are being asked to justify this murder.

Manslaughter is nothing more than a partial justification for murder. It's a lesser offense, partially justified under extenuating circumstances, and Mr. Harris is, in fact, trying to get you to justify this murder by claiming that there were extenuating circumstances as a result of this divorce.

Now, all divorces are difficult for everybody. Some divorces cause emotional trauma for both parties.

Is that a justification for murder?

You know, I saw a statistic not too long ago that I believe says that over 50 percent of the marriages in the United States ended in divorce.

Are we being asked to justify murder whenever a divorce causes emotional upset to people?

Yes, you're being asked to justify it.

I submit to you that there is absolutely no justification in the evidence that you have before you in this case for what that man did on the early morning hours of September 14th.

Mr. Harris calls it "provocation." I call it [142] "motive."

He has motive to kill.

Mr. Harris says that one o'clock in the morning he was a perfectly reasonable man; at 1:47 he was a murderer.

That's motive.

The instruction Mr. Harris referred to talks about sudden and intense passion.

The word "sudden" is the operative word there.

If there is a long period of time over which the Defendant thinks about it and gets madder and gets angrier and increases his hatred for the man he kills, it's no longer a sudden and intense passion; it is revenge. That's what it is, revenge over a long period of time.

You see, the purpose of manslaughter in this case—.

MR. MILLER: Your Honor, I'm going to object to what the purpose of manslaughter is. That's a legal argument, and it's for the Court to instruct this jury as to law and what the meanings of the different offenses are, and I would object rather strenuously. He knows better than to do that.

THE COURT: The Court will instruct the Jury as to [143] the law as to both murder and manslaughter.

MR. MICHELICH: It's perfectly proper—thank you, Your Honor.

In this case you will receive an instruction as to manslaughter, and you will see that it says, "Sudden and intense passion."

Now, under an example where somebody comes up to you and clobbers you over the head with a club or tries to shoot you, and you respond immediately, that's sudden and intense passsion, but it's right there. It's not over ten months.

Over ten months where a person has an opportunity to think about what he's doing, to think about how he should abide by the law and listen to the voice of reason. Over ten months he had plenty of opportunity to think about what he was doing.

Mr. Harris says that the ten months show provocation. That's not sudden, over ten months, ladies and gentlemen, and that is what manslaughter means, and that's what you will be instructed about.

MR. MILLER: Your Honor, I renew the objection.

THE COURT: You may proceed.

MR. MICHELICH: You will be instructed what the word "sudden" requires, what is "sudden and intense [144] passion" and there is no evidence at all of anything sudden in this case such that the Defendant could be justified in responding with force, nothing whatsoever.

There is also the double standard here.

You know, it's odd that the Defendant felt hatred and so forth because his ex-wife had a new boyfriend, but it was all right for him to go out on dates and have new girlfriends.

It's that sort of a double standard that's being applied here. It's all right for him to claim provocation after ten months.

You know, there is another example I want you to consider.

Could a man who goes into an all night convenience store and robs the clerk, and the clerk argues with him and doesn't do what he says, could that man claim sudden and intense passion when he shoots the clerk dead during a robbery?

I think we would all agree that under those circumstances that would be ludicrous.

Likewise, in this case where a man drives the distance from the trailer court on North Grand and Bruns Lane, the Brookview Trailer Court in the northwest corner of

our city, across the city clear out to South [145] Ninth Street, the 2300 block of South Ninth Street, with a knife and a man who kicks in the door, can he claim provocation?

If he can claim provocation, so can the armed robber if the clerk doesn't follow his instructions.

Ladies and gentlemen, that makes no sense.

This is not a case of provocation. Not for one minute should you believe that this is a case of provocation.

This is a case of motive, revenge, and hatred, and it's that simple.

You've probably heard either at church or school or someplace about the seven deadly sins. Sometimes I have trouble remembering them, but you probably remember that there is hatred, pride, jealousy, anger, gluteny, sloth, and lust. At least that's what I was taught.

And in that list of seven deadly sins I find four that the Defendant has virtually admitted as a motive for murder.

Jealousy? You bet.

He was jealous because his ex-wife was living with this man, and he was jealous because this man lived in the same household with his daughter.

[146] Pride? He admitted as much.

He said his pride was hurt. His price was hurt when Scot Siniscalchi laughed at him at the fair. His pride was hurt when he knew that Scot had the little girl during the day.

Anger? You bet.

He had anger against Scot Siniscalchi all the time. He had argued and he had threatened Scot's life on a couple of occasions.

Hatred?

From that witness stand he told you that he hated the man he killed.

This is not provocation; this is a motive for murder.

When I say "motive" I mean a reason. Motive is not an element of murder. Motive is the reason why the murder occurred.

And that man, Kevin Taylor, had a motive for murder, and he told you what it was: His hatred of the man who was living with his ex-wife.

No, ladies and gentlemen, this is not a case of provocation. This is a case of intent to kill, this is a case of premeditated murder, and it's a case of only pure intent. [147] You heard evidence of a number of reasons. I'm going to give them to you briefly of why this is a case of intent to kill.

Now, Mr. Harris talks about voluntary manslaughter. I submit to you that you should ignore the verdict form as to voluntary manslaughter.

You'll also get another instruction which says something like this: That since the Defendant is charged with both murder and voluntary manslaughter, if you find the Defendant guilty you may find him guilty of either offense, but not both.

I submit to you that your proper verdict is to find him guilty of murder and to ignore manslaughter entirely.

However, the instruction will say that if on the other hand you are to find him not guilty, you may find him not guilty of both. It doesn't make any difference in that case.

My suggestion to you under the evidence of this case is that you return only one verdict form to the Jury room and that is guilty of the offense of murder.

That is based on the following factors as I'm going to suggest to you.

[148] You may be able to think of more factors, but I want to give you a list that I've created here based upon the evidence that shows the Defendant had the intent to kill.

First, there was a threat over the phone January 15th, 1985 witnessed by Officer Baughman and Joyce Taylor.

There was also another threat to kill Scot Siniscalchi to June Phares at the Cottage Inn during the summer of 1985.

There was argument with Scot during the summer one day when he brought Katy over for visitation.

There was further hatred developed during the incident at the fair in August of 1985, and there was a further hatred developed during the phone call on the night of the murder.

What did he do? What did that man do that shows what his intent was?

He drove over there in a fit of rage at a high rate of speed. He took his hunting knife with him. He put it in his waist and went up the steps.

He parked his car up the street. He didn't pull it right in front of the door so people could see who he was. He parked his car up the street. That [149] takes some forethought, doesn't it?

Then what did he do?

He kicked in the door just like the man in the—in the all night convenience store who was committing a forcible felony. This man is now committing a forcible felony, that being home invasion, when he kicks in the door.

He jumped on Scot Siniscalchi as he lay in bed. He fought with Scot to put a hole in the wall.

He stabbed Scot, not once, not twice, not three times, but seven times.

Intent to kill, stabbing him seven times? Provoked to stab somebody seven times in his own bed? Provocation?

You saw the deep stab wounds in the pictures.

In fact, he was so violent and so intent upon stabbing that man to death that he cut his own arm.

He said he slipped, cut his own arm. He was stabbing that man so hard and so fast that he cut himself.

And then to prevent Joyce from calling for help, he tore the phone from the wall, and then he ran from the building slamming the door behind him.

Was he provoked to do all of that?

[150] Then was he provoked as he concealed the evidence of his murder?

And you'll remember that's the exact words I used. "You concealed evidence of a murder, did you not, Mr. Taylor?"

And he said, "Yes, I did."

Provocation? No way.

He threw the clothes covered with the blood of a man he had stabbed to death, in a trash can, and then he threw the murder weapon out on the way, concealed evidence.

And when he got back to his trailer—does a man who is provoked to a sudden passion then go to the lengths that he has to conceal his crime?

He made up false evidence, and he admitted it. He smeared his own blood on a knife, and he told the police a lie, a lie that he stuck with until he said he came to the conclusion of what he would tell you folks just a couple of months ago, a lie that he stuck with for several months.

Ladies and gentlemen, only the guilty conceal evidence, only the guilty make up false evidence, only the guilty lie. And the man is an admitted liar, and the man is an admitted felon, committing a forcible [151] felony as he entered the dwelling place of those people.

MR. MILLER: Your Honor, I'm going to object to the characterization that he's using. I think it's improper to use those kinds of words, and I object to it.

MR. MICHELICH: This is argument.

THE COURT: The record will show your objection. You may proceed.

MR. MICHELICH: Thank you.

He admitted that he kicked in the door and went into those people.

And I urge you also to consider your verdict forms also as to the offense of home invasion, because a person who is provoked suddenly and kills somebody doesn't go to the lengths that this man went to commit the offense of home invasion.

So my suggestion to you, ladies and gentlemen, I submit to you that the evidence in this case supports only one type of verdict and that is that you find the Defendant guilty of the offense of murder, that you return no verdicts at all one way or the other as to the offense of manslaughter, because it is not supported by the evidence, and that you return a verdict of guilty as to the offense of home invasion.

Thank you very much.

* * * * *

JURY INSTRUCTIONS

* * * * *

[155] * * * A person commits the offense of murder when he kills an individual without lawful justification if, in performing the acts which caused the death, he intends to kill or do great bodily harm to that individual or another; or he knows that such acts will cause death to that individual or another; or he knows that such acts create a strong probability of death or great bodily harm to that individual or another; or he is committing the offense of home invasion.

To sustain the charge of murder, the State must prove the following propositions:

First: That the Defendant performed the acts which caused the death of Scot Siniscalchi; and

Second: That when the Defendant did so he [156] intended to kill or do great bodily harm to Scot Siniscalchi; or he knew that his act would cause death or great bodily harm to Scot Siniscalchi; or he knew that his acts created a strong probability of death or great bodily harm to Scot Siniscalchi; or he was committing the offense of home invasion.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the Defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the Defendant not guilty.

A person commits the offense of home invasion when he, not being a police officer acting in the line of duty, without authority, knowingly enters the dwelling place of another when he knows or has reason to know that one or more persons is present, and intentionally causes any injury to any person within the dwelling place.

To sustain the charge of home invasion, the State must prove the following propositions:

First: That the Defendant was not a police [157] officer acting in the line of duty; and

Second: That he knowingly and without authority entered the dwelling place of another; and

Third: That when he entered the dwelling place he knew or had reason to know that one or more persons was present; and

Fourth: That he intentionally caused an injury to Scot Siniscalchi, a person within the dwelling place.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the Defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the Defendant not guilty.

A person commits the offense of voluntary manslaughter when he kills an individual if, in performing the acts which caused the death, one, he intends to kill or do great bodily harm to that individual or another; or, two, he knows that such acts will cause death to that individual or another; or, three, he knows that such acts create a strong [158] probability of death or great bodily harm to that individual or another; and at the time of the killing he acts under a sudden and intense passion resulting from serious provocatin [sic] by the deceased. Serious provocation is conduct sufficient to excite an intense passion in a reasonable person.

To sustain the charge of voluntary manslaughter, the evidence must prove the following propositions:

First: That the Defendant performed the acts which caused the death of Scot Siniscalchi, and

Second: That when the Defendant did so he intended to kill or do great bodily harm to Scot Siniscalchi; or he knew that such acts would acts would [sic] death or great bodily harm to Scot Siniscalchi; or he knew that such acts created a strong probability of death or great bodily harm to Scot Siniscalchi;

Third: That when the Defendant did so he acted under a sudden and intense passion, resulting from serious provocation by another.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the Defendant guilty.

[159] If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the Defendant not guilty.

As stated previously, the Defendant is charged with committing the offense of murder and voluntary manslaughter. If you find the Defendant guilty, you must find him guilty of either offense; but not both. On the other hand, if you find the Defendant not guilty, you can find him not guilty on either or both offenses.

* * * * *

VERDICT OF THE JURY

[164] * * * THE COURT: Have you reached a verdict?

MR. WASHINGTON: Yes, sir, we have.

THE COURT: Will you hand it to the Bailiff, please.

"We, the Jury, find the Defendant, Kevin Taylor, guilty of the offense of home invasion.

"We, the Jury, find the Defendant, Kevin Taylor, guilty of the offense of murder."

Ladies and gentlemen of the Jury, is that your verdict?

[165] MR. WASHINGTON: It is.

* * * * *

VOLUME XIV

[1][1] IN THE CIRCUIT COURT
FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	Criminal No. 85-CF-536
-vs-	)	
KEVIN W. TAYLOR,	)	
Defendant.	)	

REPORT OF PROCEEDINGS of the hearing before the Honorable Simon L. Friedman, on the 15th day of May, 1986.

APPEARANCES:

THE HONORABLE J. WILLIAM ROBERTS,
State's Attorney of Sangamon County, by
MR. JOHN A. MICHELICH,
Assistant State's Attorney, for the People.

MESSRS. JOSEPH W. MILLER and DAVID K. HARRIS,
for the Defendant.

* * * * *

[1] Numbers in brackets refer to the Court Reporter's original pagination of the Transcript of Proceedings.

SENTENCING

[87] * * * THE COURT: The Court's been considering this case ever since the Jury returned the verdict. It's been on the Court's mind.

The Court has reviewed the Pre-sentence Investigation, repeatedly looking for the aggravated circumstances of the crime, looking for the mitigating circumstances of the crime.

The Court recognizes that two families have been destroyed in this senseless act.

I never did understand Joyce Taylor throughout [88] this case. Knowing that her ex-husband had emotional problems, she didn't even take the time to deliver her child herself to him for visitation, sent her with the boyfriend.

If anybody can ever explain that to me, they'll have to write another report.

This Court knows full well that the Kevin Taylor that sits before this Court at this time does not belong in society. He has evidenced this by the act he committed. He has evidenced it by his prior record, so the Kevin Taylor that sits before this Court must forfeit his rights to be in society.

The Court is of the opinion that there is an older Kevin Taylor that should have the right to once again be out in society.

The Court rejects the prosecution's contention that this case comes under the brutal and heinous sections of the Statute. The Court believes that it only has the authority under the Statute to impose a sentence of from twenty years to forty years.

The Court is going to sentence the Defendant and does sentence the Defendant to thirty-five years in the Department of Corrections, Adult Division, State of Illinois, on the charge of murder, and that the [89] mandatory supervised release term of three years [sic].

The Court is also sentencing the Defendant to a period of six years for home invasion with a three year mandatory supervised release term, both sentences to run concurrently. It is the order of this Court then that the Defendant, Kevin W. Taylor, be sentenced to the Department of Corrections, Adult Division, State of Illinois, for a term of 35 years, mandatory supervised release term of three years, for murder, and sentenced to the Department of Corrections, Adult Division, for a term of six years for the offense of home invasion, mandatory supervised release term of three years.

Judgment is entered against the Defendant for the costs of these proceedings.

It is the further order of this Court that the Defendant be given credit for the time spent awaiting trial on this charge, which time the Court finds to be 244 days.

Is the Court correct?

MR. MICHELICH: That's right, Your Honor.

MR. MILLER: Yes, Your Honor.

THE COURT: You will be given credit for the 244 days spent in the County Jail awaiting trial for this [90] particular case.

The Defendant is remanded to the custody of the Sheriff of Sangamon County for transmittal to the Department of Corrections.

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VERDICT FORMS

We, the jury, find the defendant KEVIN TAYLOR Not Guilty of the offense of murder.

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Foreperson

J.A. 136

We, the jury, find the defendant KEVIN TAYLOR Not Guilty of the offense of home invasion.

Foreperson

C 375

J.A. 137

We, the jury, find the defendant KEVIN TAYLOR Guilty of the offense of murder.

Foreperson

C 376

We, the jury, find the defendant KEVIN TAYLOR Guilty of the offense of home invasion.

Foreperson

C 377

We, the jury, find the Defendant, KEVIN TAYLOR, Not Guilty of the offense of Voluntary Manslaughter.

Foreperson

C 378

We, the jury, find the Defendant, KEVIN TAYLOR, Guilty of the offense of Voluntary Manslaughter.

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Foreperson